

BOARD OF LEGAL DOCUMENT PREPARERS

Meeting Agenda - Monday, June 27, 2011

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 – 10:00 a.m. - 2:00 p.m. in Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration § 1-202(C).

CALL TO ORDER*Les Krambeal, Chair*

1) REVIEW AND APPROVAL OF MEETING MINUTES.....*Les Krambeal, Chair*

1-A: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of April 25, 2011.

1-B: Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of April 25, 2011.

1-C: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of June 9, 2011.

2) REVIEW OF PENDING COMPLAINTS.....*Division Staff*

2-A: Review, discussion, and possible action regarding complaint number 08-L001 involving Deanne Vinsant and ABC Paralegal Services.

2-B: Review, discussion and possible action Judge Jonathan Schwartz' Recommendation Report regarding complaint number 09-L035 and National Future Benefits, Inc.

2-C: Review, discussion and possible action regarding complaint number 10-L012 involving Elizabeth Moore.

2-D: Review, discussion and possible action regarding the proposed Consent Agreement resolution of complaint number 09-L055 involving Jill Smith and Titan Lien Services.

3) ADMINISTRATIVE ISSUES*Division Staff*

3-A: Farewell to exiting board members.

4) INITIAL CERTIFICATION APPLICATIONSDivision Staff

1. Alison N. Torba
2. Elise G. Gutierrez
3. Alejandra McEwen
4. Veronica Rolley
5. Lisa Perez-Leon
6. Krystina J. Ehrlich
7. Ana C. Dabbs
8. Jimmie E. Cannon
9. Jennifer M. Stupski
10. Linda M. Whittle
11. Carl R. Cunningham
12. Laurel L. Buldoc
13. Rondi A. Siegel
14. Leonard W. Deehan
15. Lien Solutions, Inc (Marlene S. Morton)
16. Perez Paralegal Group, LLC (Lisa Perez-Leon)
17. PSK Docs, LLC (Penny S. King)
18. Docuprep Solutions, LLC (Cassandra J. Wagner)
19. Siegel Document Preparation, LLC (Rondi A. Siegel)
20. Wellth Life, LLC (Carissa Olson)
21. Sin Abogados, Inc. (Tannya R. Gaxiola Gaxiola)
22. Shari L. Nestor
23. Cynthia M. Cooks
24. Michelle Collard
25. AZTec Documents (Mitchell R. Varbel)

4-B: Review of Business Entity Exemption Request for the 2011-2013 initial certification period:

1. Arizona Legal Ease, Inc. (Sheila R. Webster)
2. Lien Solutions, Inc (Marlene S. Morton)
3. Perez Paralegal Group, LLC (Lisa Perez-Leon)
4. PSK Docs, LLC (Penny S. King)
5. Docuprep Solutions, LLC (Cassandra J. Wagner)
6. Siegel Document Preparation, LLC (Rondi A. Siegel)

5) RENEWAL CERTIFICATION APPLICATIONS.....Division Staff

5-A: Review, discussion, and possible action regarding the following pending applications for renewal of certification:

1. Julian Anderson
2. Kusum Behari
3. Daniel Benhaim

4. Brandee Berry
5. William Bowman
6. Scott Boyer
7. Suzette Brown
8. Jodi Brown
9. Teri Campbell
10. Debra Cassidy
11. Judith Celentano
12. Alicia Celis (Montes)
13. Paris Chacon
14. Glenda Collings
15. Misty Coppedge
16. Gina Cote
17. Joe Covarrubias
18. Diana Crouch
19. Bernadette Deangelis
20. Mary Dunn
21. Mary Jo Edel
22. Carolee Elliott
23. Bruce Evers
24. Susan Faris
25. Michael Figueroa
26. Brian Finn
27. Michael Fisher
28. Patrick Flanery
29. Jolie Fontana-Black
30. Lynn Forman
31. Christine Gant
32. Charlotte Hargreaves
33. Joel Heller
34. Mandi Hemming
35. Michael Jaimes
36. Nancy James
37. Kathryn Kaiser
38. Carol Keller
39. Linda Kellogg
40. John Kincaid
41. Lori Kort
42. Bernard Kruer
43. Elaine Lacasella
44. Erica Leblang
45. Elizabeth Lloyd
46. Janet Logan
47. Catharine Longman
48. John Mansell
49. Walter Marcus
50. Mary Marcus
51. Alyssa Marino

52. Deborah Michalowski
53. Emma Moreno
54. Patricia Morrison
55. Dottie Ohe
56. Carissa Olson
57. Matthew Osborn
58. Edward Osinski
59. Karen Paschall
60. Claudia Plotnick
61. Meghan Record
62. Amy Richardson
63. Richard Rochford
64. Victoria Roff
65. Oliver Ross
66. Lori Rutledge
67. Andrew Sarager
68. Eric Schoeller
69. David Sears
70. Linda Seger
71. Michael Shadel
72. Linda Shadel
73. Dale Shephard
74. Jenny Sieles
75. Dubravka Sinno
76. Dorothy Sollars
77. Eleanor Tarman
78. Teresa Valles
79. Wendy Byford
80. Patricia Lewis
81. Daniel Peterson
82. Andrew Saper
83. Jette Stevens
84. Lidia Tagliarini

6) LICENSE AND ELIGIBILITY APPLICATION.....Division Staff

- 6-A: *Interview with and possible action regarding applicant Alan N. Ariav.*
- 6-B: *Review, discussion and possible action regarding Hearing Officer William O'Neil's Recommendation Report involving the denial of the certification application submitted by Amber R. Jackson.*
- 6-C: *Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Rhonda L. Carder.*

6-D: *Review, discussion, and possible actions regarding the requests for extensions or
waivers of continuing education requirements for certificate holders.*

CALL TO THE PUBLIC..... *Les Krambeal, Chair*

ADJOURN..... *Les Krambeal, Chair*

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – June 27, 2011

1) REVIEW AND APPROVAL OF MINUTES

I-A: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of April 25, 2011.

A draft of the regular session minutes for the meeting of April 25, 2011 is attached for the Board's review and consideration.



Board of Legal Document Preparers
Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Conference Room 109

Date: April 25, 2011
Time: 10:00 a.m. – 2:00 p.m.

DRAFT Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Les Krambeal
Andrew Saper
Paul Friedman

Telephonically Present:

Bonnie Matheson
Debra A. Young
Stephanie Gates Wolf
Cynthia Felton
Deborah Colon-Mateo

Absent:

Hon. Robert H. Oberbillig
Debra Griffin

OTHER ATTENDEES

AOC Staff:

Nancy Swetnam
Kandace French
Nina Preston
Linda Grau
Kimberly Siddall
Karla Clanton
Susan Hunt

Guests:

Krystal Aspey
Marlene Morton
Brandon Hale
Barry Goldman
Becky Nilsen

CALL TO ORDER

Called to Order By: Les Krambeal, Chair

Time: 10:03 a.m.

1) REVIEW AND APPROVAL OF MEETING MINUTES

Individuals Addressing the Board: Les Krambeal, Chair

1-A: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of February 28, 2011.

Discussion: None.

Motion: Moved to approve the regular session minutes of the Board meeting of February 28, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-063**

Individuals Addressing the Board: Les Krambeal, Chair

1-B: Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of February 28, 2011.

Discussion: None.

Motion: Moved to approve the executive session minutes of the Board meeting of February 28, 2011.

Motion Proposals: First Paul Saper
Second Andrew Friedman
Recusal

Motion Results: Pass **LDP 11-064**

2) REVIEW OF PENDING COMPLAINTS

2-A: *Review, discussion and possible action regarding complaints dismissed the Division Director pursuant to Arizona Code of Judicial Administration § 7-201(D)(4)(a) and (H)(2)(a):*

Complaint Number NC10-L056

Complaint Number NC10-L040

Complaint Number NC11-L003

Complaint Number 10-L023

Complaint Number NC11-L002

Individuals Addressing the Board: Nancy Swetnam

Discussion: Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are confidential and not a matter of public record.

Complaint Number NC10-L056:

On February 3, 2011, Certification and Licensing Division Director Nancy Swetnam determined the complaint falls outside the jurisdiction of the Board, dismissed complaint number NC10-L056 without prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC10-L056.

Motion: Moved to approve recommendation to affirm dismissal of complaint NC10-L056.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-065**

Individuals Addressing the Board: Nancy Swetnam

Discussion: **Complaint Number NC10-L040:**

On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Board, dismissed complaint number NC10-L040 with prejudice, and referred the

matter to entities that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complainant. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC10-L040.

Motion: Moved to approve recommended dismissal of complaint number NC10-L040.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-066**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L003:
On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Division, dismissed complaint number NC11-L003 with prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complainant. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC11-L003.

Motion: Moved to approve recommended dismissal of complaint number NC11-L003.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-067**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number 10-L023:
On February 3, 2011, Division Director Swetnam determined the complaint falls outside the jurisdiction of the Division, dismissed complaint number 10-L023 with prejudice, and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complainant. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board

affirm the dismissal of complaint number 10-L023.

Motion: Moved to approve dismissal of complaint number 10-L023.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-068**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L002:
On February 28, 2011, Division Director Swetnam determined the complaint did not meet the criteria provided for in ACJA § 7-201(H)(2)(a)(2)(b) through (f) and falls outside the jurisdiction of the Board. Division Director Swetnam dismissed complaint number NC11-L002 with prejudice and referred the matter to an entity that may have jurisdiction. Notice of the dismissal and the complainant's right to request Board review of the dismissal were forwarded to the complaint. The timeline for the complainant to request Board review has passed and no request for Board review has been received. Therefore, it was recommended the Board affirm the dismissal of complaint number NC11-L002.

Motion: Moved to approve dismissal of complaint number NC11-L002.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-069**

2-B: *Review, discussion, and possible action regarding the pending formal Disciplinary action involving former certificate holder Julie Haigh, Majestic's Paralegal Center and complaint number 08-L003.*

Individuals Addressing the Board: Nancy Swetnam

Discussion: On June 28, 2008, the Board entered a Final Order in an unrelated formal disciplinary action involving Ms. Haigh, MPC and complaint numbers 05-L048, 06-L112 and 07-L028. The sanctions issued in the Final Order included but were not limited to Ms. Haigh and MPC's certifications being suspended for a period of not less than 12 months. Ms. Haigh subsequently applied for reinstatement of her individual certification and the Board denied her reinstatement application. Ms. Haigh requested and received a hearing on the denial of reinstatement and on November 22, 2010, the Board reviewed the Hearing Officer's report and upheld the

denial of reinstatement.

On June 28, 2010, the Board reviewed and considered the probable cause determination in complaint number 08-L003 involving Julie Haigh and Majestic's Paralegal Center ("MPC"). At the June 28, 2010 meeting, the Board accepted the findings of the Probable Cause Evaluator and entered grounds for formal disciplinary action. The ordered Notice of Formal Statement of Charges ("NFC") was filed on August 3, 2010 and served to Ms. Haigh and MPC on August 9, 2010. On August 24, 2010, Ms. Haigh and MPC filed a timely Answer to the NFC and requested a hearing.

After further review, it was recommended that the Board dismiss the complaint.

Motion: Moved to approve recommendation and dismiss complaint 08-L003.

Motion Proposals: First Andrew Saper
Second Paul Friedman
Recusal

Motion Results: Pass **LDP 11-070**

2-C: *Review, discussion and possible action regarding the pending formal disciplinary action involving former certificate holder Kenneth Volk and complaint numbers 09-L078 and 10-L010.*

Individuals Addressing the Board: Linda Grau

Discussion: On November 22, 2010, the Board entered a Final Order in an unrelated formal disciplinary action involving Mr. Volk and complaint numbers 06-L079, 06-L098 and 07-L011. The sanctions issued in the Final Order included but were not limited to the revocation of Mr. Volk's individual certification.

On September 27, 2010, the Board reviewed and considered the probable cause determination in complaint numbers 09-L078 and 10-L010 involving Kenneth Volk. At the September 27, 2010 meeting, the Board accepted the findings of the Probable Cause Evaluator, entered grounds for formal disciplinary action, and consolidated the complaints for the purpose of the formal action. The ordered Notice of Formal Statement of Charges ("NFC") was filed on October 15, 2010 and served to Mr. Volk on the same day. On November 1, 2010, Mr. Volk filed a timely Answer to the NFC and requested a hearing. After further review, it was recommended the Board dismiss the complaint.

Motion: Moved to approve dismissal of complaint number 09-L078 and 10-L010.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Nancy Swetnam

Motion Results: Pass **LDP 11-071**

2-D: Review, discussion and possible action regarding certificate holder complaints:

Complaint Number 06-L088 – Estate Services Group, LLC and Warner Lewis

Complaint Number 10-L036 – Sherrene Caley

Complaint Number 09-L055 – Titan Lien Services and Jill Smith

Complaint Number 10-L028 – Jacqueline Vigil

Complaint Number 10-L033 – Capital Consultants Management Corporation and Judith Alsbaugh

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number 06-L088 – Estate Services Group, LLC and Warner Lewis:

On March 18, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists in complaint number 06-L088. It was recommended the Board accept the finding of the Probable Cause Evaluator and adopt the Division Director's recommendation to include considering dismissal is the appropriate disposition of this case based on the following:

1. No evidence was presented or obtained that demonstrated the misconduct resulted in harm to the public.
2. The violation occurred before or during 2006.
3. The Board previously addressed and resolved the misconduct with the employees of ESG at the time the Board took action regarding their individual applications for certification.

Motion: Moved to approve recommendation to dismiss the above complaint based on the above noted.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-072**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number 10-L036 – Sherrene Caley:
On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L036. Therefore, it was recommended the board accept the finding of the Probable Cause Evaluator and enter a finding grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(4)(b), (J)(5)(a) and Arizona Rules of Civil Appellate Procedure Rules 4(a), 14(a)(3) and 14(b) and issue a Letter of Concern.

Motion: Moved to accept the finding of the Probable Cause Evaluator and enter a finding grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(4)(b), (J)(5)(a) and Arizona Rules of Civil Appellate Procedure Rules 4(a), 14(a)(3) and 14(b) and issue a Letter of Concern.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-073**

Motion: Moved to authorize the Chair to sign the Letter of Concern on behalf of the entire Board.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-074**

Individuals Addressing the Board: Linda Grau

Discussion: Complaint Number 09-L055 – Titan Lien Services and Jill Smith:
On March 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist as to Allegation 1 and does exist as to Allegations 2 and 3 in complaint number 09-L055. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1.

Regarding Allegations 2 and 3, it was recommended the Board enter a finding grounds for formal disciplinary action exists

pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1), and ACJA § 7-208(F)(1)(c)(1), (F)(2), (F)(3) and (J)(5)(b). In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factors and also that in this case, although there was the potential for harm to the public, no actual harm occurred. Therefore, it was recommended the Board offer Titan Lien Services (“Titan”) and Smith a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c).

It was recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Titan and Smith that if they enter the Consent Agreement they waives their right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

- a) Issue a Censure to Titan Lien Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- b) Issue a Letter of Concern to Smith, pursuant to ACJA § 7-201(H)(a)(24)(6)(a);
- c) Order Smith to participate in no less than three (3) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
- d) Impose civil penalties in the amount of \$250.00 per found violation to be remitted no later than 60 days following entry of the Board’s Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Titan Lien Services and Smith decline the opportunity to enter the Consent Agreement within 20 days of receipt of the Board’s offer, it was recommended staff proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion: Moved to approve the above recommendations of filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order, to include the addition of costs.

<i>Motion Proposals:</i>	First	Paul Friedman
	Second	Andrew Saper
	Recusal	Nancy Swetnam

Motion Results: Pass **LDP 11-075**

Individuals Addressing the Board: Linda Grau

Discussion:

Complaint Number 10-L028 – Jacqueline Vigil:

On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L028. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for an acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(2), (F)(3), (J)(5)(a) and (J)(5)(b).

In determining the appropriate disposition in this case, it was recommended the Board consider the cited mitigating factor and also that in this case, although there was the potential for harm to the public, no actual harm occurred. Therefore, it was recommended the Board offer Vigil a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It was recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Vigil that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

- a) Issue a Censure to Vigil, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- b) Order Vigil participate in no less than three (3) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
- c) Impose civil penalties in the amount of \$250.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Vigil declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it was recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion:

Moved to approve the above recommendations of the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order and to include the addition of costs.

Motion Proposals: First Cynthia Felton

Second Stephanie Gates Wolf
Recusal Nancy Swetnam

Motion Results: Pass **LDP 11-076**

Individuals Addressing the Board: Linda Grau

Discussion: Complaint Number 10-L033 – Capital Consultants Management Corporation and Judith Alspaugh:

On February 18, 2011, Probable Cause Evaluator Baumstark entered a finding probable cause exists in complaint number 10-L033. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (F)(3), (F)(6)(c), (J)(5)(a) and (J)(5)(b).

In determining the appropriate disposition in this case, it was recommended the Board consider the cited mitigating factor. Therefore, it was recommended the Board offer Capital Consultants Management Corporation (“CCMC”) and Alspaugh a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It was recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to CCMC and Alspaugh that if they enter a Consent Agreement, they waive their right to a hearing, and impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Issue a Censure to Alspaugh, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- b) Order Alspaugh participate in no less than five (5) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal within (60) days following the entry of the Board’s Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
- c) Issue a Censure to CCMC, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- d) Place CCMC on probation for a period of not less than six months pursuant to ACJA § 7-201(H)(24)(a)(6)(e) with the following conditions:
 - i. CCMC shall immediately and hence forth cease and desist from offering or providing any legal services that exceed the authorities of a certified legal document preparer or otherwise constitute the unauthorized practice of law; including any and all

contractual service agreements, pursuant to ACJA § 7-201(H)(24)(a)(6)(g).

- ii. No later than sixty (60) days following the entry of the Board's Final Order, CCMC shall develop and implement policies and procedures necessary to ensure no member of the CCMC staff, its officers, or any others acting on behalf of the business entity are engaging in the unauthorized practice of law. A copy of the written policies and procedures shall be submitted to the Certification and Licensing Division ("Division").
- iii. CCMC and Alspaugh shall submit to the Division an updated and comprehensive list of any and all individuals providing legal document preparation services on behalf of the certified business entity within fifteen (15) days following entry of the Board's Final Order. The list shall identify the certification status of each individual and identify, if applicable, whether each individual is an ACJA § 7-208(F)(5) trainee along with the date the trainee meets the minimum eligibility requirement to apply for individual certification.
- e) CCMC shall be assessed costs associated with the investigation and any related disciplinary proceedings and shall remit the payment of the assessed costs no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j).
- f) CCMC shall be assessed a civil penalty in the amount of \$250.00 per found violation and shall remit the payment of the civil penalty no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

In the event CCMC and Alspaugh decline the opportunity to enter a Consent Agreement within twenty (20) days of receipt of the Board's offer, it was recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion: Moved to approve the above recommendations and proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

Motion Proposals:	First	Paul Friedman
	Second	Andrew Saper
	Recusal	Nancy Swetnam

Motion Results: Pass

LDP 11-077

2-E: *Review, discussion and possible action regarding a possible Consent agreement resolution of the pending formal disciplinary action involving certificate holder Tiffany Lehr and complaint number 09-L094.*

Individuals Addressing the Board: Linda Grau

Discussion: On January 24, 2011, the Board accepted the finding of the Probable Cause Evaluator involving certificate holder Tiffany Lehr and complaint number 09-L094. The Board entered findings of grounds for formal disciplinary action and ordered a proposed Consent Agreement resolution be offered to Ms. Lehr in advance of the filing of the Notice of Formal Statement of Charges.

The attached proposed Consent Agreement, signed and submitted by Ms. Lehr for the Board's consideration, includes:

- Lehr understands she waives her right to a hearing regarding complaint number 09-L094;
- Board finds misconduct and Lehr acknowledges and accepts responsibility for the misconduct detailed in Allegation 4 in the Investigation Summary, Allegation Analysis and Probable Cause Determination Report and Board Order issued in complaint number 09-L094;
- Board will issue a Censure to Lehr in complaint number 09-L094;
- Lehr requests and the Board accepts the voluntary surrender of Lehr's individual legal document preparer certificate, certificate number 80900;
- Board orders and Lehr agrees to participate in no less than five (5) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, in order to be considered for active certification any point in the future;
- Lehr understands failure to comply with the terms of this Consent Agreement may result in the Board

taking further disciplinary action or denying renewal of or any future application for individual certification; and,

- Board and Lehr recognize there could be additional complaints against Lehr relating to the same or substantially the same conduct or categories of conduct as set forth in the Investigative Report and the Consent Agreement, including, but not limited to preparing, filing or recording documents or assisting with small claims court matters, which occurred prior to Lehr having knowledge of the subject complaint and determinations, and that the Consent Agreement resolution is intended to resolve any and all such matters involving the same or similar categories of conduct. Additionally, should the Division receive a complaint in the future pertaining to other conduct in which Lehr engaged during the time she was a Certified Legal Document Preparer through the date of this Consent Agreement, this Consent Agreement shall be deemed a significant mitigating factor pursuant to ACJA §7-201(H)(22)(b)(1).

It was recommended the Board accept and enter the proposed Consent Agreement.

Motion: Moved to accept and enter the above proposed Consent Agreement.

Motion Proposals: First Andrew Saper
Second Cynthia Felton
Recusal Nancy Swetnam, Bonnie Matheson, Paul Friedman

Motion Results: Pass **LDP 11-078**

Motion: Moved to authorize Chair to sign Consent Agreement on behalf of the full Board.

Motion Proposals: First Andrew Saper
Second Cynthia Felton
Recusal Nancy Swetnam, Bonnie Matheson, Paul Friedman

Motion Results: Pass **LDP 11-079**

2-F: *Review, discussion and possible action regarding non-certificate holder complaints:*

Complaint Number NC08-L030 – Jan Rust and Rust & Associates
Complaint Number NC10-L054 – Jan Rust and Rust & Associates
Complaint Number NC11-L017 – Camerin Hawthorne and The Bankruptcy Store
Complaint Number NC11-L012 – Paul Noseworthy and Marathon Legal Forms & Services, LLC
Complaint Number NC11-L018 – Ken Volk and Arizona Tenant Advocates

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC08-L030 – Jan Rust and Rust & Associates, Complaint Number NC10-L054 – Jan Rust and Rust & Associates: Division records reflect Ms. Rust held active legal document preparer certification from July 1, 2004 through October 16, 2006. Ms. Rust and her business entity, Rust and Associates, were denied 2006-07 renewal. Ms. Rust requested and received a hearing on the denial of her renewal applications. On October 16, 2006, the Board reviewed the Hearing Officer's recommendation report and affirmed the denial of renewal of Ms. Rust's individual and business entity certifications. Division records reflect Ms. Rust received notice of the denials being affirmed.

On July 18, 2007, Ms. Rust reapplied for individual certification and her application was denied. Ms. Rust requested and received a hearing on the denial. On April 21, 2008, the Board reviewed the Hearing Officer's recommendation report and affirmed the earlier denial. Division records reflect Ms. Rust received notice of the denial being affirmed.

On July 21, 2008, the Board reviewed and considered non-certificate complaint number NC08-L030 and entered an order requesting the Arizona Attorney General's Office file a Petition for Cease and Desist Order in the Superior Court. The Petition has not yet been filed.

On December 2, 2010, the Division received a complaint forwarded from the State Bar of Arizona submitted by a consumer who alleged and provide documentation which demonstrates Ms. Rust offered to and provided legal document preparation service without certification.

ACJA § 7-201(E)(6) states:

Cease and Desist Order. The board, upon completion of an investigation or disciplinary proceeding, may issue a cease and desist order pursuant to subsection (H)(24)(a)(6)(g). A hearing officer or a superior court judge, upon petition by the board, may enter an order for an individual or business entity to immediately cease and desist conduct constituting engagement in the practice of the profession or occupation without the required certification.

ACJA § 7-208(E)(1) provides:

Necessity. A person or qualified business entity shall not represent they are a certified legal document preparer, or are authorized to prepare legal documents, without holding valid certification pursuant to this section.

Therefore, it was recommended the Board move to include complaint number NC10-L054 in the previously ordered Superior Court Petition for Cease and Desist Order involving Ms. Rust and Rust & Associates. It was further recommended that if the Board determines to pursue a Superior Court action, that the Board requests the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion: Move to accept the above recommendation to include complaint number NC10-L054 in the previously ordered Superior Court Petition for Cease and Desist Order involving Ms. Rust and Rust & Associates and to pursue a Superior Court action and request the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Saper
Second Andrew Friedman

Motion Results: Pass **LDP 11-080**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L017 – Camerin Hawthorne and The Bankruptcy Store
On November 22, 2010, the Board considered and denied Mr. Hawthorne's application for individual certification. Division records reflect Mr. Hawthorne received notice of the denial. A review of the certification application reflects no reference to The Bankruptcy Store.

On March 31, 2011, the Division received a complaint from the Consumer Litigation Unit of the Attorney General's Office which alleged and provided documentation demonstrating Mr. Hawthorne is offering services and claiming to be an Arizona Supreme Court certified legal document preparer. The documentation received involves printouts of information contained on the website www.thebkstore.com. Available online search engines reflect Mr. Hawthorne is the owner/registrant of the www.thrbkstore.com domain name.

The "home" page of the website asserts, "The Bankruptcy Store is a certified by the Arizona Supreme Court as a legal document preparation entity." Division records reflect The Bankruptcy Store has never applied for or been granted certification. The "Background" tab of the biographical posting for Mr. Hawthorne which identifies him as a "Sr. Partner" provides information about his educational background, lists "Arizona Supreme Court CLDP" under the heading "Professional Associations and Memberships", and contains a header which reads, "CLDP Bar Admissions" that lists "Arizona, 2010" and "U.S. Federal Court, 2010".

It was recommended the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Hawthorne and The Bankruptcy Store pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1). It was further recommended that if the Board determines to pursue a Superior Court action, that the Board request the Petition to include a request that the Superior Court order any applicable consumer reimbursements and assess costs.

Motion: Moved to approve recommendation the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Hawthorne and The Bankruptcy Store pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) and to pursue a Superior Court action, that the Petition to include a request that the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-081**

Individuals Addressing the Board: Nancy Swetnam

Discussion: Complaint Number NC11-L012 – Paul Noseworthy and Marathon Legal Forms & Services, LLC
On February 28, 2011, the Board reviewed and denied Mr.

Noseworthy's application for individual legal document preparer certification. Division records reflect Mr. Noseworthy received notice of the denial.

On March 1, 2011, the Division received a complaint which alleged and provided documentation demonstrating Mr. Noseworthy is offering services and claiming to be an Arizona Supreme Court certified legal document preparer. The forwarded documentation included a copy of a printout from the www.marathonlegaldocuments.com website that specifically identifies Mr. Noseworthy as an "Arizona certified legal document preparer and Arizona Licensed fiduciary." The website also asserts Mr. Noseworthy will prepare documents, explain them, notarize the documents, and arrange for courier service for filing with the Superior Court. [Note: Division records reflect Mr. Noseworthy has also been denied a fiduciary license. This issue will be considered by the Fiduciary Board at their next regularly scheduled meeting.]

On March 11, 2011, the attached letter was sent to Mr. Noseworthy noting the earlier denial of his certification application and reflecting the Division's receipt of the complaint. On March 24, 2011, the Division received the attached written response from Mr. Noseworthy dated March 22, 2011. In the letter, Mr. Noseworthy states:

I will hereby refrain from any such action in the future until certification is obtained as I was not intentionally skirting statutes. I do not feel as if I violated the sanctity of the statutes regarding Practicing Law or even providing Legal document preparer services to individuals. I will also pull the website down even though it is not active at the current time.

As of the drafting of this summary on April 11, 2011, the website continues to contain the incorrect language identifying Mr. Noseworthy as an Arizona Supreme Court certified legal document preparer and licensed fiduciary. It was recommended the Board move to petition the Superior Court for a Cease and Desist Order against Mr. Noseworthy and Marathon Legal Forms & Services, LLC pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1). It was further recommended that if the Board determines to pursue a Superior Court action, that the Board requests the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion:

Moved to approve the above recommendations to petition the Superior Court for a Cease and Desist Order against Mr.

Noseworthy and Marathon Legal Forms & Services, LLC pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) and to approve recommendation to pursue a Superior Court action, that the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-082**

Individuals Addressing the Board: Linda Grau

Discussion: Complaint Number NC11-L018 – Ken Volk and Arizona Tenant Advocates:

On November 24, 2010, the Board issued the attached Final Order revoking the individual certification of Ken Volk. The formal disciplinary matter underlying the Final Order addressed unauthorized practice of law violations involving Mr. Volk and his non-certified business entity. The Final Order included a Cease and Desist Order that enjoined Mr. Volk from preparing legal documents, representing to the public he is a certified legal document preparer or otherwise authorized to prepare legal documents, and from engaging in any activities that constitute the unauthorized practice of law.

Prior to the Final Order being entered, Mr. Volk and the business entity maintained weekly “Break Yer Lease Legally” advertisements offering various landlord-tenant related services. During the course of the formal disciplinary action, the ads were discontinued. A copy of the April 29, 2010 ad is attached.

The April 7, 2011 Phoenix New Times contains a similar ad offering the same services and presenting the same contact information. Also attached are online database printouts from the Arizona Secretary of State and the Arizona Corporation Commission which confirm Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. are Mr. Volk.

It was recommended the Board move for filing of a Superior Court Petition for Cease and Desist Order against Mr. Volk, Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) specifically noting the Board previously issued a disciplinary Cease and Desist Order. It was further

recommended that if the Board determines to pursue a Superior Court action, that the Board requests the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion: Move to approve the above recommendation the Board move for filing of a Superior Court Petition for Cease and Desist Order against Mr. Volk, Arizona Tenants Advocates, Arizona Tenants Association and Arizona Tenants Advocates, Inc. pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) specifically noting the Board previously issued a disciplinary Cease and Desist Order and approve recommendation to pursue a Superior Court action, that the Board request the Petition to include a request the Superior Court order any applicable consumer reimbursements and assess costs.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Nancy Swetnam

Motion Results: Pass LDP 11-083

3) ADMINISTRATIVE ISSUES

3-A: *Review, discussion, and possible action regarding comment by the Board regarding the Supreme Court Rule Petition R-11-000.*

Individuals Addressing the Board: Kandace French

Discussion: Discussion on the follow-up to Board's last meeting in regards to review of petition R-11-000, regarding amendment to Rule 31 on the authorized agent of a planned community association allowing them to prepare, execute and record liens on behalf of the association. The Board discussed the matter and suggested the staff draft comments consistent with the Board's position in regards to the proposed amendment, bring it back to the Board for review and approval. That information has been provided to the Board for its review; any discussion and approval of the comment to be presented prior to the deadline.

Motion: Moved to approve the comment and allow the Chair to sign on behalf of the full Board.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass LDP 11-084

4) INITIAL CERTIFICATION APPLICATIONS

4-A: *Review, discussion and possible action regarding the following pending applicants for 2009-2011 certifications.*

1. Loleta Harrison
2. Michael W. Olsen
3. Leonard W. Deehan
4. Veronica Rolley
5. Marlene Morton
6. Alejandra McEwen
7. Cynthia Cooks
8. Elise G. Gutierrez
9. Alan N. Ariav
10. Rapid RPS (AZ), LLC (Barry Goldman)
11. AZTec Documents (Michell R. Varbel)

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicants have demonstrated they met the minimum eligibility requirements for standard certification, their applications are complete and no information has been presented during the background investigation which is contrary to standard certification being granted. Therefore, it was recommended standard certification be granted to the following individuals:

1. Loleta Harrison
2. Michael W. Olsen

Motion: Moved to grant standard certification to the above listed applicants, Harrison and Olsen.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass LDP 11-085

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicant has demonstrated she met the minimum eligibility requirements for standard certification, her application is

complete and no information has been presented during the background investigation which is contrary to standard certification being granted. Therefore, it was recommended standard certification be granted to the following individual:

5. Marlene Morton

Motion: Moved to grant standard certification to the above listed applicant, Marlene Morton.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-086**

Discussion: The following applications remain incomplete pending receipt of additional information. It was recommended these applicants be deferred to the June meeting.

- 3. Leonard W. Deehan
- 4. Veronica Rolley
- 6. Alejandra McEwen
- 7. Cynthia Cooks
- 8. Elise G. Guitierrez

Motion: Moved to defer the above listed applicants to the June meeting.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-087**

Individuals Addressing the Board: Kimberly Siddall

10. Rapid RPS (AZ), LLC (Barry Goldman)

Discussion: It was recommended to grant standard business certification to the above applicant.

Motion: Moved to grant standard business certification to Rapid RPS (AZ), LLC (Barry Goldman).

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-088**

Individuals Addressing the Board: Kimberly Siddall

9. Alan N. Ariav

11. AZTec Documents (Mitchell R. Varbel)

Discussion: Recommend entering into executive session to discuss 4A; item #9 and staff requested to also add item #11 to the discussion.

Motion: Moved to enter into executive session to discuss the above applicants, #9 and #11.

Motion Proposals: First Cynthia Felton
Second Stephanie Gates Wolf

Motion Results: Pass **LDP 11-089**

EXECUTIVE SESSION: **Start 10:55 a.m.** **End: 11:03**

Individuals Addressing the Board: Kimberly Siddall

9. Alan N. Ariav

Discussion: It was recommended the Board invite the above applicant to the June meeting for an informal interview.

Motion: Moved to accept the above recommendation.

Motion Proposals: First Andrew Saper
Second Cynthia Felton
Recusal Paul Friedman

Motion Results: Pass **LDP 11-090**

Individuals Addressing the Board: Kimberly Siddall

11. AZTec Documents (Mitchell R. Varbel)

Discussion: Recommended by staff to defer the above applicant to the June meeting.

Motion: Moved to accept the recommendation to defer the above applicant, AZTec Documents (Mitchell R. Varbel) to the June meeting.

Motion Proposals: First Andrew Saper

Second Cynthia Felton
Recusal Paul Friedman

Motion Results: Pass **LDP 11-091**

4-B: *Review of Business Entity Exemption Request for the 2009-2011 initial Certification period:*

Individuals Addressing the Board: Kimberly Siddall

1. Rapid RPS (AZ), LLC (Barry Goldman)

Discussion: It is recommended the above Business Entity Exemption be granted.

Motion: Moved to grant Business Entity Exemption to Rapid RPS (AZ).

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-092**

5) LICENSE AND ELIGIBILITY APPLICATION

5-A: *Review, discussion, and possible action regarding the Denial of Applicant Lynette Torres.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: At the January 24, 2011 Board meeting, the Board denied the above applicant for not meeting the qualifications or eligibility requirements at the time of application.

Applicant originally stated on her application she worked for attorney Fernando Fajardo, now a disbarred attorney, from 2/92 to 6/92 and worked for attorney Mark Goodman as a legal secretary assistant from 12/83 to 12/84. Staff asked for the applicant to provide an affidavit of employer from Mr. Fajardo. Applicant provided the detailed steps she took to try to obtain such an affidavit. Also, when applicant worked for Mr. Goodman she provided a detailed description of her job duties as follows: Legal Secretary assistant, computer typing, answer phones, office reception, file case documents with legal courts, banking and legal transactions. Staff's review of the applicant's file indicates she

does not have the experience as required by code.

Ms. Torres requested a hearing. Staff received employment verification from Mark Goodman's office indicating it was "unknown, no records, no recollection of person. May have been the runner." for Ms. Torres' time of employment. However, staff also received a letter from certified legal document preparer Jodi Brown indicating Ms. Torres worked under her preparing legal documents from January 1984 to December 1984 while both were employees of Mr. Goodman. Staff has verified this information.

Therefore, it was recommended the Board vacate the January 24th denial and enter a motion to grant certification to Ms. Torres.

Motion: Moved to accept recommendation to grant certification to Ms. Torres.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass LDP 11-093

6) REVIEW OF RENEWAL APPLICATIONS

6-A: Review, discussion, and possible action regarding pending renewal Applications for 2009-2011 standard certification.

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holders had pending complaints at the time of renewal in 2009. However, those complaints have been adjudicated and their certifications have been revoked. Therefore, it was recommended the Board deny the following renewal applications pursuant to ACJA § 7-201 (E)(2)(c)(2)(b)(vi) has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate:

1. Rae Heimer
2. Kenneth Volk

Motion: Moved to deny the above renewal applications of the above applicants Heimer and Volk.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-094**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holder and business entity had pending complaints at the time of renewal in 2009. However, those complaints have been adjudicated; and therefore, it was recommended the Board grant renewal of standard certification to the following:

3. Richard C. Hoyt
4. Richard C. Hoyt & Associates, Inc (Richard Hoyt)

Motion: Moved to approve staff recommendation and grant renewal of standard certification to the above applicant.

Motion Proposals: First Andrew Saper
 Second Cynthia Felton

Motion Results: Pass **LDP 11-095**

CALL TO THE PUBLIC - None

ADJOURNMENT

Motion: Moved to adjourn the meeting.

Motion Proposals: First Paul Friedman
 Second Andrew Saper

Motion Results: Pass **LDP 11-096**

Time: 11:15 a.m.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – Monday, June 27, 2011

1) REVIEW AND APPROVAL OF MINUTES

1-B: Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of April 25, 2011

A draft of the executive session minutes of the meeting of April 25, 2011 is attached for the Board's review and consideration.

Pursuant to Arizona Code of Judicial Administration § 1-202, executive session minutes are confidential and not available for public inspection.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – June 27, 2011

1) REVIEW AND APPROVAL OF MINUTES

I-C: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of June 9, 2011.

A draft of the regular session minutes for the meeting of June 9, 2011 is attached for the Board's review and consideration.



Board of Legal Document Preparers
Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Conference Room 107

Date: June 9, 2011
Time: 1:00 p.m. – 1:30 p.m.

DRAFT Telephonic Meeting

MEMBER ATTENDANCE:

Present:

Telephonically Present:

Absent:

Bonnie Matheson
Debra A. Young
Stephanie Gates Wolf
Les Krambeal
Andrew Saper
Paul Friedman

Cynthia Felton
Deborah Colon-Mateo
Hon. Robert H. Oberbillig
Debra Griffin

OTHER ATTENDEES

AOC Staff:

Linda Grau
Kandace French
Nina Preston
Debbie MacDougall
Susan Hunt

Guests:

Ward Parker – AZ State Bar
Rich Kingdon – AZ State Bar

CALL TO ORDER

Called to Order By:

Les Krambeal, Chair

Time:

1:03 p.m.

I) ADMINISTRATIVE ISSUES

Individuals Addressing the Board: Linda Grau

I-A: Review, discussion and possible action regarding "Petitioners' Compromise Language for Petition to Amend Rule 31(d) Arizona Rules of the Supreme Court" dated June 3, 2011.

Discussion: The Petitioners' Compromise Language document was forwarded to the Board with the announcement of this meeting. There was also a draft proposed comment for the Board's review, consideration and discussion regarding the issues. It was noted that no one within the AOC, or the Legal Document program, had any discussions with the petitioners in this matter. The "compromise" language that is offered does not overcome the central focus of the Board's previous concerns. Staff recommended adopting an order for filing the draft comments which underscores the earlier issues addressing the Board's original comments to the petition, but also reiterates the public policy issues regarding the potential harm to the public.

Motion: Moved to adopt the draft compromise language and allow the Chair to sign on behalf of the Board.

Motion Proposals:

First	Paul Friedman
Second	Andrew Saper
Recusal	Bonnie Matheson

Motion Results: Pass **LDP 11-097**

CALL TO THE PUBLIC - None

ADJOURNMENT

Motion: Moved to adjourn the meeting.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-098**

Time: 1:12 p.m.

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BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

2) REVIEW OF PENDING COMPLAINTS

2-A: Review, discussion, and possible action regarding complaint number 08-L001 involving Deanne Vinsant and ABC Paralegal Services.

On April 25, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists regarding Allegation 2 and does not exist as Allegation 1 of complaint number 08-L001. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1. Regarding Allegation 2, it is recommended the Board enter a finding grounds for informal disciplinary action exist pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) and issue a Letter of Concern.

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Deanne Vinsant
	Certification Number:	80735 (Revoked)
	Business Name:	ABC Paralegal Services
	Certificate Number:	80912 (Expired)
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	Name:	Roy Caballero
INVESTIGATION INFORMATION	Complaint Number:	08-L001
	Investigator:	Tony Posante
	Complaint Received:	January 3, 2008
	Complaint Forwarded to the Certificate Holder:	January 23, 2008
	Response From Certificate Holder Received:	None received
	Report Date:	June 25, 2008

The investigation of this complaint included the following:

- Written complaint and documentation submitted by and investigatory interview with complainant Roy Caballero ("Caballero")
- Review of Court records in Superior Court in Navajo County probate case PB2007-0027
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208

ALLEGATION ALLEGED BY COMPLAINANT:

1. Deanne Vinsant ("Vinsant") failed to prepare promised and paid for documents regarding Caballero's probate case.

ADDITIONAL ALLEGATIONS:

2. Vinsant failed to provide a written response to this complaint as required by ACJA § 7-201(H)(3)(c).

SUMMARY OF INVESTIGATION:

On November 30, 2006, Caballero hired Vinsant at ABC Paralegal Services ("ABC") to prepare probate documents pertaining to the estate of his late wife, Monika. Vinsant prepared some of the agreed upon documents, but then moved to Tennessee before completing all of the documents promised to Caballero. Caballero reported this left him no choice but to have the remaining documents prepared elsewhere at additional cost.

INVESTIGATION:

Effective January 31, 2005, the Board of Legal Document Preparers granted individual certification to Vinsant. Vinsant's certification renewed her individual certification without interruption through the certification period ending June 30, 2009. On June 23, 2008, the Board entered a Final Order in complaint numbers 06-L086, 07-L031, 07-L037, 07-L041, 07-L056 and 07-L065 revoking Vinsant's individual certification.

Division records reflect ABC was granted business entity certification on November 13, 2006, but did not apply for renewal of certification. ABC's business entity certificate expired June 30, 2007. Division records reflect Vinsant was the designated principal for ABC.

On November 19, 2007, the Division received a written complaint from Caballero. Caballero alleged ABC did not finish his probate estate documents as agreed to by Vinsant. The complaint offered no further specifics. The submitted complaint form contained information reflecting the complaint had been faxed to the Division from certified business entity White Mountain Paralegal Services. On December 3, 2007, Division staff sent a written request to Caballero for additional information regarding his complaint.

On January 23, 2008, the Division forwarded a copy of the complaint to Vinsant (who had relocated to Tennessee) along with a letter notifying Vinsant of the ACJA § 7-201(H)(3)(c) requirement she provide a written response to the complaint within thirty (30) days. Vinsant signed for the mailing on January 31, 2008. As of the day of this report, Vinsant has not submitted the required written response to the complaint.

On January 31, 2008, Division Investigator Tony Posante ("Investigator Posante") contacted complainant Caballero by telephone. Caballero indicated around Thanksgiving of 2006 he contacted Vinsant at ABC regarding the preparation probate documents involving the estate of his late wife, Monika. Caballero indicated he paid Vinsant \$650.00 with the verbal understanding the fee was for all legal document preparation services needed. Caballero indicated he "practically had to threaten" Vinsant to get the initial filing of formal probate in Superior Court in Navajo County. Later, Caballero reported the probate case was ruled informal and transferred to Apache County. Caballero indicated he ultimately had to go to another business (unnamed) for the completion of the probate documents and the required publication of the probate case.

On February 15, 2008, the Division received a mailing from Caballero. Caballero provided a copy of the check he used to pay Vinsant for legal document preparation services. The check, check number 1001, in the amount of \$686.00, was made payable to "ABC Paralegal" and dated November 30, 2006. The back of the check indicated it was deposited by ABC on December 1, 2006. Caballero also provided copies of three pleadings filed in the Superior Court in Navajo County, all marked filed on March 19, 2007. The three pleadings referenced probate case number PB2007-0027 and addressed

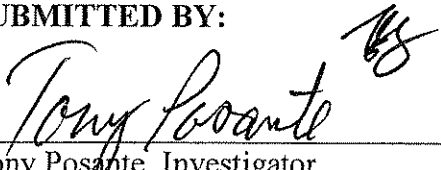
Caballero's appointment as Personal Representative in the probate case of his deceased wife. The three pleadings contained Vinsant's former name "Deanne Cywinski" title, and certificate number identifying Vinsant as the certified legal document preparer responsible for the pleadings. Below Vinsant's name is an email address of abcpaalegalservices@yahoo.com. However, the documents do not contain business entity certification identification. The three pleadings filed were:

- *ORDER TO PERSONAL REPRESENTATIVE AND ACKNOWLEDGEMENT AND INFORMATION TO HEIRS*
- *STATEMENT OF FORMAL PROBATE AND APPOINTMENT OF PERSONAL REPRESENTATIVE.* (Note: On the pleading, the word "formal" was lined through, and "informal" was handwritten on the pleading.)
- *LETTER OF PERSONAL REPRESENTATION*

Caballero indicated he did not have any additional paperwork from his transaction with Vinsant, such as a contract, fee schedule etc.

Caballero also provided a copy of a receipt from a different, again unnamed, business, purporting Caballero paid an additional \$554.00 for the preparation of the remaining probate documents. The receipt lists \$469.00 for services and \$85.00 for publication.

SUBMITTED BY:



Tony Posante, Investigator 6/25/08
Certification and Licensing Division Date

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE
EVALUATION and DECISION**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Deanne Vinsant
	Certification Number:	80735 (Revoked)
	Business Name:	ABC Paralegal Services
	Certificate Number:	80912 (Expired)
	Type of Certificate/License:	Legal Document Preparer
INVESTIGATION INFORMATION	Complaint Number:	08-L001
	Investigator:	Tony Posante

ANALYSIS OF ALLEGATIONS:

Allegation 1. Deanne Vinsant ("Vinsant") failed to prepare promised and paid for documents regarding Roy Caballero's ("Caballero") probate case.

Caballero reported he paid Vinsant for the preparation of probate related documents and that Vinsant prepared some but not all of the agreed upon documents before she relocated to Tennessee. Caballero provided copies of the documents Vinsant did prepare and a copy of the cancelled check for the service fee he paid to ABC Paralegal Services ("ABC"), Vinsant's business entity. Vinsant failed to respond to the complaint. No documentation or corroborating evidence which confirms the service agreement between Caballero, Vinsant and ABC was presented or obtained during the investigation. Therefore, Allegation 1 is not substantiated.

Allegation 2. Vinsant failed to provide a written response to this complaint as required by ACJA § 7-201(H)(3)(c).

ACJA § 7-201(H)(3)(c) states, in part:

The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint.

Division records reflect Vinsant received the complaint on January 31, 2008. Vinsant did not submit a written response or requested additional time to respond. Therefore, Allegation 2 is substantiated.

SUBMITTED BY:

 5/11/10

Linda Grau, Unit Manager Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 08-L001 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause does not exist as to Allegation 1 and does exist as to Allegation 2.

SUBMITTED BY:

Nancy Swetnam 4/11/11
Nancy Swetnam, Division Director Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 08-L001, the Probable Cause Evaluator:

☐ requests division staff to investigate further.

☒ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

#1

☒ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#2

Mike Baumstark 4/25/11
Mike Baumstark Date
Probable Cause Evaluator

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

***CERTIFICATE
HOLDER
INFORMATION***

Certificate Holder:	Deanne Vinsant
Certificate Number:	80735 (Revoked)
Business Name:	ABC Paralegal Services
Certification Number:	80912 (Expired)

**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1 of complaint number 08-L001.

Regarding Allegation 2, it is recommended the Board enter a finding Deanne Vinsant and ABC Paralegal Services committed the alleged act of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 08-L001.

It is further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 (H)(6)(a) and (H)(7) for an act of misconduct involving ACJA § 7-201(H)(3)(c) and issue a Letter of Concern.

SUBMITTED BY:

 4/26/11
Nancy Swetnam, Division Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 08-L001, Deanne Vinsant, certificate number 80735, and ABC Paralegal Services, certificate number 80912, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- ☐ requests division staff to investigate further.
- ☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

- ☐ dismisses the complaint, and:

- ☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
- ☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- ☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- ☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- ☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- ☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

- ☐ adopts the recommendations of the Division Director.
- ☐ does not adopt the recommendations of the Division Director and orders:

 Les Krambeal, Chair Date
 Board of Legal Document Preparers

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

2) REVIEW OF PENDING COMPLAINTS

2-B: Review, discussion and possible action Judge Jonathan Schwartz' Recommendation Report regarding complaint number 09-L035 and National Future Benefits, Inc.

On December 3, 2010, the attached Notice of Formal Statement of Charges was filed and subsequently served to certified business entity National Future Benefits, Inc. ("NFB"). A hearing was held on April 18, 2011. In lieu of testimony, Judge Schwartz accepted the details of the proposed consent agreement resolution detailed in the attached Recommendation Report.

It is recommended the Board adopt the Finding of Facts and Conclusions of Law contained in Judge Schwartz' Recommendation Report and note NFB's acknowledgement and acceptance of responsibility for the alleged misconduct conduct detailed in the Investigation Summary, Allegation Analysis and probable Cause Determination Report, and Board Order in complaint number 09-L035.


It is further recommended the Board:

- Accept NFB's request to voluntarily surrender its business entity certification under discipline, pursuant to ACJA § 7-201(E)(7)(b) and (H)(24)(a)(6)(c);
- Assess cost for the investigation and related disciplinary proceedings in the amount of \$818.35, to be remitted to the Division within sixty (60) days of entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j);
- Impose a civil penalty in the amount of \$250.00 per found violation for a total of \$750.00, to be remitted to the Division within sixty (60) days of entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

NOTE: Former NFB employees also named in the action, Robin McElfresh and Victoria Cegla, were also served. The matters involving Ms. McElfresh and Ms. Cegla have previously been resolved by separate orders of the Board.

FILED

MAY 24 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A CERTIFIED LEGAL
DOCUMENT PREPARERS:

NATIONAL FUTURE BENEFITS UNLIMITED,
INC.

Certificate Number 80403,

ROBIN McELFRESH

Certificate Number 80841,

And

VICTORIA CEGLA

Certificate Number 80892

No. LDP-NFC-09-L035

**HEARING OFFICER'S
RECOMMENDATION
FOR CONSENT AGREEMENT
RESOLUTION OF
DISCIPLINARY ACTION**

JURISDICTION

The Board of Legal Document Preparers ("Board"), acting pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA § 7-208, granted business entity legal document preparer certification to National Future Benefits Unlimited, Inc. ("NFB"), effective July 28, 2003. The NFB business entity certification has been active without interruption through the current certificate period ending June 30, 2011.

Acting pursuant to ACJA § 7-201(H) and ACJA § 7-208(H), on December 3, 2010, the Board charged NFB with violating the ACJA and filed a Notice of Formal Statement of Charges and Right to a Hearing in No. LDP-NFC-09-L035.

1 On December 6, 2010, the Board served NFB with a copy of the Notice
2 of Formal Statement of Charges in No. LDP-NFC-09-L035. NFB filed a timely
3 Answer to the Notice of Formal Statement of Charges and requested a
4 hearing. The hearing was held on April 18, 2011 before the Honorable
5 Jonathan H. Schwartz ("Judge Schwartz") acting as the Hearing Officer. At
6 the hearing, NFB and Division Staff presented Judge Schwartz with a proposed
7 resolution of the pending formal disciplinary action as detailed below.

8 The Board holds the authority to proceed with this action pursuant to
9 ACJA § 7-201(D)(5)(c).

10 **FINDINGS OF FACTS**

11 This Hearing Officer recommends that the Board adopt the "Factual
12 Allegations of Misconduct" at pages 4-7 of the Notice of Formal Statement of
13 Charges as the Findings of Facts in this matter as they pertain to NFB. These
14 facts are as follows:

15 "On June 5, 2009, the Division received an anonymous mailing
16 addressed to the Programs and Investigations Unit appearing to demonstrate
17 NFB was offering \$100.00 compensation for customer referrals. The mailing
18 presented NFB's website address which contained published content
19 advertising the referral program and an 8.5 x 3.5 inch pre-paid postage
20 postcard addressed to NFB which read 'National Future Benefits has now
21 implemented a new referral program. For each referral given that utilizes our
22 services, we will give you \$100.00.'

23 The NFB website was examined by Division staff. The review of the
24 website determined NFB offered estate planning and document preparation
25 services. The website also appeared to reflect the majority of NFB services

1 required a consultation and, ultimately, the preparation of legal documents.
2 The website appeared to reflect legal document preparation was an inherent
3 part of NFB's offered services and advertised the referral program. The
4 posted content regarding the referral program stated no exclusions or
5 restrictions regarding which NFB services the referral program was applicable
6 to.

7 On July 10, 2009, the Division received a written response to the
8 complaint from NFB CEO Schafer. Schafer acknowledged NFB's financial
9 division offers referral incentives to current customers and noted the financial
10 division employees were licensed in Arizona to sell financial and insurance
11 products. Schafer stated, 'NFB's referral program is designed for the
12 employees working in the financial division to obtain new clients. The referral
13 program was not designed for the sole purpose to obtain new document
14 preparation clients for NFB.' Schafer added McElfresh had no involvement in
15 the referral program.

16 ACJA section 7-208(F)(5) and (F)(6) provide the designated principal of
17 a certified legal document preparer business entity may supervise a individual,
18 known as a 'trainee', who would qualify for certification but for the lack of
19 required experience for a period of up to two and one half years and until such
20 time as the individual meets the experiential requirement to apply for
21 individual certification

22 On August 12, 2009, Division Investigator Karla Clanton ("Investigator
23 Clanton") conducted a telephonic interview regarding the complaint with
24 McElfresh. McElfresh, who had since left the employ of NFB, reported when
25 she worked for NFB she was aware of the referral program the NFB marketing

1 department was responsible for. McElfresh reported having no input regarding
2 or any direct or indirect participation in the referral program. McElfresh stated
3 the legal document preparer department was a small part of the business.
4 She indicated she would prepare the documents for a customer and an
5 employee from the annuity or insurance department would then meet with the
6 customer and extend the offer of the \$100.00 referral. McElfresh confirmed
7 the referral program had been in existence at NFB for years and asserted she
8 believed the ACJA section 7-208(J)(3)(c) provision prohibiting compensation
9 or other consideration for referrals was not applicable to NFB as long as the
10 certified legal document preparers were not involved in the referral program.

11 Investigator Clanton reviewed a list, dated June 3, 2009, of the certified
12 legal document preparers and trainees McElfresh submitted for NFB. The list
13 identified NFB employees Rebecca Ruiz ("Ruiz") and Melissa Luna ("Luna") as
14 ACJA section 7-208(F)(5) 'trainees'. Division records reflected Ruiz was
15 granted individual legal document preparer on February 23, 2009 and
16 therefore, did not qualify as a trainee. Ruiz did not reapply for certification
17 renewal and allowed her certification to expire on June 30, 2009. Division
18 records reflected Luna was first identified as an ACJA section 7-208(F)(5)
19 'trainee' for NFB on October 17, 2006. ACJA section 7-208 limits an
20 individual's trainee status to no more than two and one half years. Therefore,
21 Luna was not qualified to serve as a trainee at the time McElfresh submitted
22 the June 3, 2009 list.

23 On August 19, 2009, Investigator Clanton conducted a telephonic
24 interview with the NFB designated principal Cegla. Cegla verified Ruiz and
25 Luna were still employed by NFB. Cegla indicated Ruiz was listed as a trainee

1 on June 3, 2009 because NFB was uncertain if Ruiz would be staying on as
2 employee. Cegla reported NFB did not pay for Ruiz' 2009-2011 renewal
3 application because of this uncertainty. Cegla indicated she would speak with
4 NFB human resources Department regarding Luna's status with the business
5 since she was beyond the maximum two and one half years allowed as a
6 trainee. Cegla avowed she would submit a change in designated principal
7 form and an updated list of the legal document preparers and trainees
8 preparing documents for NFB.

9 On August 21, 2009, Cegla submitted the change of designated
10 principal form and updated list of NFB trainees and legal document preparers.
11 Cegla listed several NFB employees who were not certified legal document
12 preparers or previously identified as ACJA section 7-208(F)(5) trainees but
13 who were preparing legal documents on behalf of NFB.

14 On August 27, 2009, Investigator Clanton spoke with Cegla regarding
15 the change of designated principal form and the list of legal document
16 preparers and trainees Cegla submitted on August 12, 2009. Cegla was asked
17 to explain the duties and responsibilities of the individuals listed. Cegla
18 informed Investigator Clanton NFB employees Amanda Walker, Calvin Goetz,
19 Erica Jaeger, Patricia Head and Nichole Quihuis continue to prepare legal
20 documents on behalf of the certified business entity but NFB did not want to
21 pay for their individual certification application fees. Cegla acknowledged
22 these individuals were probably 'trainees' and they all meet the minimum
23 eligibility requirement to apply for individual legal document preparer
24 certification. Cegla reported she and NFB were under the belief the business
25 entity and its customers could continue to benefit from the document

1 preparation assistance of the non-certified, non-qualified trainees as long as
2 they were no longer identified to the Division as trainees or legal document
3 preparers."

4 **CONCLUSIONS OF LAW**

5 This Hearing Officer recommends that the Board adopt the following
6 Conclusions of Law in this matter.

7 1) NFB violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(3)(c) and
8 (J)(5)(a) by failing to perform all duties in accordance with applicable
9 rules when offering to pay an incentive for new customer referrals;
10 constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a),
11 (H)(6)(k)(2) and (H)(6)(k)(3).

12 2) NFB violated ACJA § 7-201(F)(1), ACJA 7-208(F)(2), (F)(5)(c)(3),
13 (F)(6)(a), (J)(1)(a), (J)(2)(c) and (J)(5)(a) by former NFB designated
14 principals Robin McElfresh's ("McElfresh") and Victoria Cegla's ("Cegla")
15 having failed to fulfill their responsibilities to ensure NFB and its
16 employees were acting in compliance with the provisions of ACJA § 7-
17 208(J)(3)(c) regarding compensation and other considerations for
18 customer referrals; constituting grounds for discipline pursuant to ACJA
19 § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3).

20 3) NFB violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (F)(5)(a),
21 (F)(5)(c)(3), (F)(6)(a), (J)(1)(a), (J)(2)(c), and (J)(5)(a) by
22 McElfresh's and Cegla's having failed to fulfill their responsibilities as
23 NFB's designated principal by allowing non-certified, non-qualified
24 trainee employees to prepare legal documents of behalf of NFB for NFB
25

1 customers; constituting grounds for discipline pursuant to ACJA § 7-
2 201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3) and (H)(6)(k)(11).

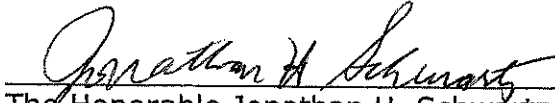
3 **RECOMMENDATION FOR FINAL DECISION**

4 The Hearing Officer agrees with NFB and Division Staff and
5 recommends that the Board accept the following stipulated resolution of the
6 formal disciplinary action involving NFB in complaint number 09-L035:

- 7 a) NFB acknowledges and accepts responsibility for the alleged misconduct
8 as detailed in the Investigation Summary, Allegation Analysis and
9 Probable Cause Determination Report and Board Order issued in
10 complaint number 09-L035.
- 11 b) NFB requests and Division staff recommends that the Board accept
12 NFB's voluntary surrender of its business entity certification under
13 discipline, pursuant to ACJA § 7-201(E)(7)(b) & 7-201(H)(24)(a)(6)(c).
- 14 c) NFB agrees to pay and Division staff recommends the Board assess
15 costs for the investigation and the related disciplinary proceeding in an
16 amount to be determined upon receipt of the invoices related to the
17 April 18, 2011 hearing, not to exceed \$1,000.00. It is recommended
18 the Board determine the assessed costs shall be remitted to the
19 Division within sixty (60) days of entry of the Board's Final Order
20 pursuant to ACJA § 7-201(H)(24)(a)(6)(j).
- 21 d) NFB agrees to pay and Division staff recommends the Board impose a
22 civil penalty in the amount of \$250 per found violation for a total of
23 \$750.00, pursuant to ACJA § 7-201(H)(24)(a)(6)(k). It is
24 recommended the Board determine the imposed civil penalty shall be
25

1 remitted to the Division within sixty (60) days of entry of the Board's
2 Final Order.

3 DATED this 24th day of May, 2011

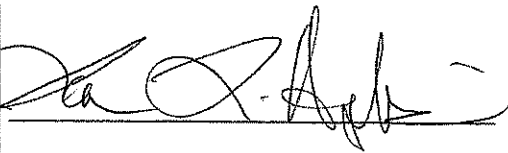
4
5 
6 The Honorable Jonathan H. Schwartz (retired)
Hearing Officer

7
8 Copy of the foregoing mailed/hand-delivered
this 25th day of May, 2011 to the following:

9 Board of Legal Document Preparer
10 1501 W. Washington, Suite 104
Phoenix, AZ 85007-3231

11 Fred Stork
12 Assistant Attorney General
1275 W. Washington
13 Phoenix, AZ 85007-2997
Attorney for the Program

14 Michael Salcido
15 Molever Connelly PLLC
Indian Bend Corporate Centre
16 8161 E. Indian Bend Road, Suite 103
Scottsdale, AZ 85250
17 Attorney for NFB

18 
19

Cost Statement

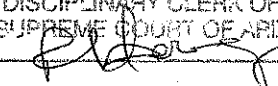
National Future Benefits, Inc. - 09-L035

STAFF COSTS	\$656.34
CERTIFIED MAIL	\$4.66
PROCESS SERVER	\$61.10
COURT REPORTER	\$96.25
TOTAL	<u>\$818.35</u>

*Costs as of May 4, 2011

FILED

DEC 03 2010

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

**ARIZONA SUPREME COURT
BOARD OF LEGAL DOCUMENT PREPARERS**

IN THE MATTER OF CERTIFIED LEGAL
DOCUMENT PREPARERS:

NATIONAL FUTURE BENEFITS
UNLIMITED, INC.
Certificate Number 80403,

ROBIN MCELFRISH
Certificate Number 80841,

And

VICTORIA CEGLA
Certificate Number 80892.

No. LDP-NFC-09-L035

NOTICE OF FORMAL
STATEMENT of
CHARGES and RIGHT to
HEARING

JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA § 7-208, the Board of Legal Document Preparers ("Board") serves this Notice of Formal Statement of Charges and provides notice to Robin McElfresh ("McElfresh"), Victoria Cegla ("Cegla"), and National Future Benefits Unlimited, Inc. ("NFB") they have a right to request a hearing on the proposed disciplinary action involving certificate numbers 80841, 80892 and 80403. The Board has jurisdiction over this matter as McElfresh, Cegla and NFB are certified legal document preparers. NFB was granted business entity certification effective July 28, 2003. McElfresh was granted individual certification effective December 19, 2005. McElfresh was

1 the designated principal of record for the NFB at the time the complaint was received by the
2 Division and until July 27, 2009. Cegla was granted individual certification on July 27, 2006.
3 Celga became the NFB designated principal effective July 29, 2009. NFB, McElfresh and
4 Celga's certifications have been renewed without interruption through the current certificate
5 period ending June 30, 2011.

6 Pursuant to ACJA § 7-201 (H)(24)(a), the Board may find no violation has occurred
7 and dismiss the complaint or may enter a finding of violation(s) and impose sanction(s) through
8 and including revocation of certification, assessment of costs, and civil penalties.

9 On July 7, 2010, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator
10 Mike Baumstark entered a finding probable cause exists McElfresh, Cegla and NFB committed
11 the alleged acts of misconduct in complaint number 09-L035.

12 On September 27, 2010, the Board entered a finding grounds for formal disciplinary exists
13 in complaint number 09-L035 involving NFB, McElfresh and Celga pursuant to ACJA § 7-
14 201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3), and (H)(6)(k)(11) for alleged acts of
15 misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (F)(5)(a), (F)(5)(c)(3),
16 (F)(6)(a), (J)(1)(a), (J)(2)(c), (J)(3)(c) and (J)(5)(a).

17 18 **ANSWER OF CERTIFICATE HOLDER**

19 Pursuant to ACJA § 7-201(H)(11), McElfresh, Cegla and NFB shall file an Answer to
20 this Notice of Formal Statement of Charges within fifteen (15) days of receipt of this Notice.
21 McElfresh, Cegla and NFB's Answer shall comply with Rule 8 of the Arizona Rules of Civil
22 Procedure. Any defenses not raised in the Answer are waived. If McElfresh, Cegla and NFB
23 fail to file an Answer within the time provided, they are in default and the factual allegations in
24 the formal charges are deemed admitted and the Board may determine the matter against them.
25

1 McElfresh, Cegla and NFB's Answer shall be filed with the Certification and Licensing
2 Division, Disciplinary Clerk and Hearing Office, Suite 104, 1501 West Washington, Phoenix,
3 Arizona 85007.

4 **NOTICE OF RIGHT TO HEARING**

5 Pursuant to ACJA § 7-201(H)(12), McElfresh, Cegla and NFB may request a hearing
6 within fifteen (15) days of receipt of the Notice of Formal Charges and Right to Hearing. The
7 Request for Hearing must comply with ACJA § 7-201(H)(12), and shall be filed with the
8 Certification and Licensing Division ("Division"), Disciplinary Clerk and Hearings Unit, 1501
9 West Washington, Suite 104, Phoenix, Arizona 85007. If McElfresh, Cegla and NFB do not
10 timely file a Request for Hearing, they will not have a right to a hearing.

12 **BACKGROUND FACTS**

13 1. On June 5, 2009, the Division received an anonymous mailing addressed to the
14 Programs and Investigations Unit appearing to demonstrate NFB was offering \$100.00 of
15 compensation for customer referrals.

16 2. On June 10, 2009, Administrative Director of the Courts David Byers ("Director
17 Byers") initiated complaint number 09-L035 pursuant to ACJA § 7-201(H)(1)(b) alleging NFB
18 was offering compensation for referrals in violation of ACJA § 7-201(F)(1) and ACJA § 7-
19 208(F)(2) and (J)(3)(c)(3).

20 3. On July 10, 2009, the Division sent a letter with a copy of the complaint to NFB care of
21 then designated principal McElfresh. The letter informed NFB and McElfresh of the ACJA §
22 7-201(H)(3)(c) requirement they submit a written response to the complaint within thirty (30)
23 days.

24 4. NFB Chief Executive Officer Michael Schafer ("Schafer") submitted a response to this
25 complaint on behalf of NFB on July 10, 2009.

FACTUAL ALLEGATIONS OF MISCONDUCT

The Board, having knowledge sufficient to form a belief as to the truth of this information, hereby alleges and finds as follows:

5. On June 5, 2009, the Division received an anonymous mailing addressed to the Programs and Investigations Unit appearing to demonstrate NFB was offering \$100.00 compensation for customer referrals. The mailing presented NFB's website address which contained published content advertising the referral program and an 8.5 x 3.5 inch pre-paid postage postcard addressed to NFB which read "National Future Benefits has now implemented a new referral program. For each referral given that utilizes our services, we will give you \$100.00."

6. The NFB website was examined by Division staff. The review of the website determined NFB offered estate planning and document preparation services. The website also appeared to reflect the majority of NFB services required a consultation and, ultimately, the preparation of legal documents. The website appeared to reflect legal document preparation was an inherent part of NFB's offered services and advertised the referral program. The posted content regarding the referral program stated no exclusions or restrictions regarding which NFB services the referral program was applicable to.

7. On July 10, 2009, the Division received a written response to the complaint from NFB CEO Schafer. Schafer acknowledged NFB's financial division offers referral incentives to current customers and noted the financial division employees were licensed in Arizona to sell financial and insurance products. Schafer stated, "NFB's referral program is designed for the employees working in the financial division to obtain new clients. The referral program was not designed for the sole purpose to obtain new document preparation clients for NFB." Schafer added McElfresh had no involvement in the referral program.

1 8. ACJA § 7-208(F)(5) and (F)(6) provide the designated principal of a certified legal
2 document preparer business entity may supervise a individual, known as a "trainee", who
3 would qualify for certification but for the lack of required experience for a period of up to two
4 and one half years and until such time as the individual meets the experiential requirement to
5 apply for individual certification.

6 9. On August 12, 2009, Division Investigator Karla Clanton ("Investigator Clanton")
7 conducted a telephonic interview regarding the complaint with McElfresh. McElfresh, who
8 had since left the employ of NFB, reported when she worked for NFB she was aware of the
9 referral program the NFB marketing department was responsible for. McElfresh reported
10 having no input regarding or any direct or indirect participation in the referral program.
11 McElfresh stated the legal document preparer department was a small part of the business. She
12 indicated she would prepare the documents for a customer and an employee from the annuity
13 or insurance department would then meet with the customer and extend the offer of the \$100.00
14 referral. McElfresh confirmed the referral program had been in existence at NFB for years and
15 asserted she believed the ACJA § 7-208(J)(3)(c) provision prohibiting compensation or other
16 consideration for referrals was not applicable to NFB as long as the certified legal document
17 preparers were not involved in the referral program.

18 10. Investigator Clanton reviewed a list, dated June 3, 2009, of the certified legal document
19 preparers and trainees McElfresh submitted for NFB. The list identified NFB employees
20 Rebecca Ruiz ("Ruiz") and Melissa Luna ("Luna") as ACJA § 7-208(F)(5) "trainees".
21 Division records reflected Ruiz was granted individual legal document preparer on February
22 23, 2009 and therefore, did not qualify as a trainee. Ruiz did not reapply for certification
23 renewal and allowed her certification to expire on June 30, 2009. Division records reflected
24 Luna was first identified as an ACJA § 7-208(F)(5) "trainee" for NFB on October 17, 2006.
25 ACJA § 7-208 limits an individual's trainee status to no more than two and one half years.

1 Therefore, Luna was not qualified to serve as a trainee at the time McElfresh submitted the
2 June 3, 2009 list.

3 11. On August 19, 2009, Investigator Clanton conducted a telephonic interview with the
4 NFB designated principal Cegla. Cegla verified Ruiz and Luna were still employed by NFB.
5 Cegla indicated Ruiz was listed as a trainee on June 3, 2009 because NFB was uncertain if
6 Ruiz would be staying on as employee. Celga reported NFB did not pay for Ruiz' 2009-2011
7 renewal application because of this uncertainty. Cegla indicated she would speak with NFB
8 human resources department regarding Luna's status with the business since she was beyond
9 the maximum two and one half years allowed as a trainee. Celga avowed she would submit a
10 change in designated principal form and an updated list of legal document preparers and
11 trainees preparing documents for NFB.

12 12. On August 21, 2009, Cegla submitted the change of designated principal form and
13 updated list of NFB trainees and legal document preparers. Cegla listed several NFB
14 employees who were not certified legal document preparers or previously identified as ACJA §
15 7-208(F)(5) trainees but who were preparing legal documents on behalf of NFB.

16 13. On August 27, 2009, Investigator Clanton spoke with Celga regarding the change of
17 designated principal form and the list of legal document preparers and trainees Celga submitted
18 on August 12, 2009. Cegla was asked to explain the duties and responsibilities of the
19 individuals listed. Cegla informed Investigator Clanton NFB employees Amanda Walker,
20 Calvin Goetz, Erica Jaeger, Patricia Head and Nichole Quihuis continue to prep are le gal
21 documents on behalf of the certified business entity but NFB did not want to pay for their
22 individual certification application fees. Cegla acknowledged these individuals were
23 previously "trainees" and they all meet the minimum eligibility requirement to apply for
24 individual legal document preparer certification. Celga reported she and NFB were under the
25 belief the business entity and its customers could continue to benefit from the document

1 preparation assistance of the non-certified, non-qualified trainees as long as they were no
2 longer identified to the Division as trainees or legal document preparers.

3 4 **FORMAL CHARGES**

5 14. Certified business entity NFB violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2),
6 (J)(3)(c) and (J)(5)(a) by failing to perform all duties in accordance with applicable rules when
7 offering to pay an incentive for new customer referrals; constituting grounds for discipline
8 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2) and (H)(6)(k)(3).

9 15. McElfresh violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (F)(5)(c)(3), (F)(6)(a),
10 (J)(1)(a), (J)(2)(c), and (J)(5)(a) by failing to fulfill her responsibilities as NFB's designated
11 principal to ensure NFB and its employees were acting in compliance with the ACJA § 7-
12 208(J)(3)(c) provisions regarding compensation and other considerations for customer
13 referrals; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2)
14 and (H)(6)(k)(3).

15 16. McElfresh violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (F)(5)(a), (F)(5)(c)(3),
16 (F)(6)(a), (J)(1)(a), (J)(2)(c), and (J)(5)(a) by failing to fulfill her responsibilities as NFB's
17 designated principal by allowing non-certified, non-qualified trainee employees to prepare
18 legal documents of behalf of NFB for NFB customers; constituting grounds for discipline
19 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3) and (H)(6)(k)(11).

20 17. Celga violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (F)(5)(a), (F)(5)(c)(3),
21 (F)(6)(a), (J)(1)(a), (J)(2)(c), and (J)(5)(a) by failing to fulfill her responsibilities as NFB's
22 designated principal by allowing non-certified, non-qualified trainee employees to prepare
23 legal documents of behalf of NFB for NFB customers; constituting grounds for discipline
24 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d), (H)(6)(k)(2), (H)(6)(k)(3) and (H)(6)(k)(11).
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PROPOSED DISCIPLINARY SANCTIONS

The Board, based on the foregoing factual allegations of misconduct, is seeking the following disciplinary sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Suspend NFB's certification for a period of no less than 180 days, pursuant to ACJA § 7-201(H)(24)(a)(6)(h);
- b) Issue a cease and desist order enjoining NFB from offering to or preparing legal documents, representing to the public they are certified legal document preparers, or conducting any activities that constitutes the unauthorized practice of law during the period of the suspension and until such time as any and all conditions for reinstatement are met to the satisfaction of the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
- c) Issue a Censure to McElfresh, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- d) Issue a Censure to Cegla, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- e) Mandate McElfresh participate in no less than ten (10) additional hours of continuing education in the curriculum areas of ethics and professional responsibility, in addition to the annual ten (10) hour continuing education requirement, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
- f) Mandate Cegla participate in no less than ten (10) additional hours of continuing education in the curriculum areas of ethics and professional responsibility, in addition to the annual ten (10) hour continuing education requirement, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
- g) As a condition of reinstatement, require NFB and designated principal Cegla to ensure all individuals preparing legal documents on behalf of NFB and for NFB customers are qualified and reported ACJA § 7-208(F)(5) trainees or hold active individual certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(d);
- h) Assess costs associated with the investigation and any related administrative proceedings to NFB, to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j), and establish payment of the assessed costs as ordered as a condition of reinstatement pursuant to ACJA § 7-201(H)(24)(a)(6)(h); and,
- i) Impose a civil penalty against NFB in the amount of \$250.00 per found violation, to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k) and establish payment of the civil penalty as ordered as a condition of reinstatement pursuant to ACJA § 7-201(H)(24)(a)(6)(h).

DATED this 3rd day of December, 2010.



Les Krambeal, Chair
Board of Legal Document Preparers

1 An original copy of the foregoing to be served to:

2 National Future Benefits Unlimited, Inc.
3 7150 E. Camelback Road, Suite 333
4 Scottsdale, Arizona 85251

5 Victoria Cegla
6 7150 E. Camelback Road, Suite 333
7 Scottsdale, Arizona 85251

8 Robin McElfresh
9 8525 E. Turney Avenue
10 Scottsdale, Arizona 85251

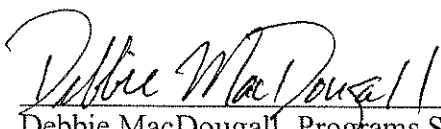
11 The original copy of the foregoing hand delivered and/or mailed this 3rd day of December,
12 2010, to:

13 Rex Nowlan
14 Administrative Law Section
15 Office of the Attorney General
16 15 South 15th Avenue, 4th Floor
17 Phoenix, Arizona 85007

18 Nina Preston, Assistant Counsel
19 Administrative Office of the Court
20 1501 West Washington
21 Phoenix, Arizona 85007

22 Certification and Licensing Division
23 Arizona Supreme Court
24 1501 West Washington, Suite 104
25 Phoenix, Arizona 85007

By:


Debbie MacDougall, Programs Specialist
Certification and Licensing Division

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Nat'l Future Benefits 09-L035.doc

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

2) REVIEW OF PENDING COMPLAINTS

2-C: Review, discussion and possible action regarding complaint number 10-L012 involving Elizabeth Moore.

On December 13, 2010, certificate holder Elizabeth Moore was served with the attached Notice of Formal Statement of Charges in complaint number 10-L012. Moore timely filed an Answer and requested a hearing. During the hearing preparation phase of the proceedings, Moore, through her attorney, requested Consent Agreement consideration to resolve the pending disciplinary action. Attached is the proposed Consent Agreement resolution already signed by Moore.

It is recommended the Board enter the Consent Agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

1
2
3 **ARIZONA SUPREME COURT**
4 **BOARD OF LEGAL DOCUMENT PREPARERS**

5 IN THE MATTER OF CERTIFIED)
6 LEGAL DOCUMENT PREPARER:)

No. 10-L012

7 ELIZABETH "JO" MOORE,)
8 Certificate Number 80114)
9

CONSENT AGREEMENT

10 **JURISDICTION**

11 Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA § 7-
12 208, the Board of Legal Document Preparers ("Board") has jurisdiction over this matter as
13 Elizabeth Moore ("Moore") is a certified legal document preparer. On April 15, 2010, the
14 Certification and Licensing Division ("Division") received complaint number 10-L012 from
15 consumer Phillip Shelton ("Shelton"). The written complaint alleged Moore failed to prepare a
16 legal document for Shelton as agreed upon and paid for [Allegation 1] and that Moore failed to
17 respond to or provide a refund request from Shelton for the legal document preparation services
18 she did not provide [Allegation 2]. Three additional allegations were derived from the
19 investigation and include Allegation 3, that Moore failed to submit a written response to this
20 complaint as required by ACJA § 7-201(H)(3)(c); Allegation 4, that Moore violated ACJA § 7-
21 201(E)(5) and ACJA § 7-208(E)(1) and (J)(1)(d) by circulating a business card that improperly
22 identified her business entity, Mohave County Paralegal, LLC, as a certified legal document
23 preparer business; and Allegation 5, that Moore violated ACJA § 7-201(E)(3)(d) by failing to
24 obtain and maintain business entity certification for Mohave County Paralegal, LLC. The
25

1 allegations were investigated and on July 30, 2010, Probable Cause Evaluator Mike Baumstark
2 entered a finding probable cause exists as to all five allegations in complaint number 10-L012.

3 On November 22, 2010, the Board accepted the finding of the Probable Cause
4 Evaluator and entered a finding grounds for formal disciplinary action exist in complaint
5 number 10-L012 pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d) and (H)(6)(k)(3) for acts of
6 misconduct involving ACJA § 7-201(E)(5), (F)(1) and (H)(3)(c) and ACJA § 7-208(E)(1),
7 (E)(3)(d)(1), (F)(2), (J)(1)(a), (J)(1)(d), (J)(4)(a) and (J)(4)(b).

8 A Notice of Formal Statement of Charges was filed on December 8, 2010 and served to
9 Moore on December 13, 2010. Moore filed a timely Answer and requested a hearing.

10 By entering this Consent Agreement, Moore understands she waives her right to a
11 hearing regarding complaint number 10-L012 and agrees to the following Consent Agreement
12 provisions pursuant to ACJA § 7-201(H)(24)(a)(6):

13 1. The Board finds misconduct and Moore acknowledges and accepts responsibility for
14 the found misconduct detailed in the Investigation Summary, Allegation Analysis and Probable
15 Cause Determination Report and Board Order issued in complaint number 10-L012.

16 2. The Board will issue a Letter of Concern to Moore, pursuant to ACJA § 7-
17 201(H)(24)(a)(6)(a).

18 3. The Board orders and Moore agrees to comply with ACJA § 7-208(E)(3)(d)(1) and
19 apply for business entity certification for Mohave County Paralegal, LLC within 60 days of
20 Moore's receiving notice of the Board's entry into this Consent Agreement, pursuant to ACJA
21 § 7-201(H)(24)(a)(6)(d).

22 4. The Board orders and Moore agrees to reimburse Philip Shelton the amount of \$175.00
23 within 30 days of Moore's receiving notice of the Board's entry into this Consent Agreement,
24 pursuant to ACJA § 7-201(H)(24)(a)(6)(d). Moore shall submit documentation of the fulfilled
25 reimbursement to the Division with 15 days after of payment is made.

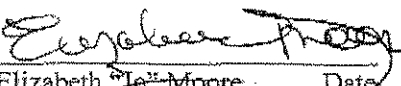
1 5. The Board assesses and Moore agrees to pay costs associated with the investigation and
2 disciplinary proceedings in the amount of \$263.68, pursuant to ACJA § 7-201(H)(24)(a)(6)(j).
3 Moore shall remit the assessed to the Certification and Licensing Division, 1501 West
4 Washington, Suite 104, Phoenix, Arizona 85007; made payable to the "Arizona Supreme
5 Court" within sixty (60) days after Moore receives notice of the Board's entry into this Consent
6 Agreement.

7 6. The Board imposes and Moore agrees to pay a civil penalty in the amount of \$1,250.00,
8 an amount Mohave County Paralegal, LLC would have paid for certification application and
9 renewal fees during the 2007-09 and 2009-11 certificate periods, to be remitted no later than
10 sixty (60) days after Moore receives notice of the Board's entry into this Consent Agreement,
11 pursuant to ACJA § 7-201(H)(24)(a)(6)(k). Moore shall remit the imposed civil penalty to the
12 Certification and Licensing Division, 1501 West Washington, Suite 104, Phoenix, Arizona
13 85007, made payable to the "Arizona Supreme Court".

14 7. Moore understands failure to comply with the terms of this Consent Agreement may
15 result in the Board taking further disciplinary action or denying renewal of certification.

16
17 Entered into on this date by:

Entered into on this date by:

18  5/10/11
19 Elizabeth "Le" Moore Date
20 Certificate Number 80114

21 Les Krambeal, Chair Date
22 Board of Legal Document Preparers
23
24
25

1 An original copy of the foregoing hand delivered and/or mailed this ____ day of _____,
2 2011, to:

3 Elizabeth Moore
4 P.O. Box 3033
5 Kingman, Arizona 86402

6 Fred Stork
7 Administrative Law Section
8 Arizona Attorney General's Office
9 15 South 15th Avenue
10 Phoenix, Arizona 85007

11 Nina Preston, Assistant Counsel
12 Administrative Office of the Court
13 1501 West Washington
14 Phoenix, Arizona 85007

15 Certification and Licensing Division
16 Arizona Supreme Court
17 1501 West Washington, Suite 104
18 Phoenix, Arizona 85007

19 By:

20 Debbie MacDougall, Programs Specialist
21 Certification and Licensing Division
22
23
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25

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP MOORE, ELIZABETH 10-L012\CONSENT
AGREEMENT MOORE 10-L012.DOCX

FILED

DEC 08 2010

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

ARIZONA SUPREME COURT
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL
DOCUMENT PREPARER:

No. LDP-NFC-10-L012

ELIZABETH MOORE,
Certificate Number 80114.

NOTICE OF FORMAL
STATEMENT of
CHARGES and RIGHT to
HEARING

JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA § 7-208, the Board of Legal Document Preparers ("Board") serves this Notice of Formal Statement of Charges and provides notice to Elizabeth Moore ("Moore") she has a right to request a hearing on the proposed disciplinary action involving certificate number 80114. The Board has jurisdiction over this matter as Moore became certified as an individual legal document preparer effective January 1, 2003. Moore's individual certification has been renewed without interruption through the current certification period which ends on June 30, 2011.

The complaint was received during the period of Moore's active certification and she was provided an opportunity to respond and participate in the investigation of the complaint. The Board holds the authority to proceed with this action pursuant to ACJA § 7-201(D)(5)(c).

Pursuant to ACJA § 7-201(H)(24)(a), the Board may find no violation has occurred and dismiss the complaint or may enter a finding of violation(s) and impose sanction(s) through and including revocation, assessment of costs, and civil penalties.

1 On July 30, 2010, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator
2 Mike Baumstark entered a finding probable cause exists in complaint number 10-L012. The
3 particular sections of laws, court rules, ACJA, and orders relevant to the alleged acts of
4 misconduct are ACJA § 7-201(E)(5), (F)(1) and (H)(3)(c) and ACJA § 7-208(E)(1),
5 (E)(3)(d)(1), (F)(2), (J)(1)(a), (J)(1)(d), (J)(4)(a) and (J)(4)(b).

6 On November 22, 2010, the Board entered a finding of grounds for formal disciplinary
7 action exists pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d) and (H)(6)(k)(3).

8 **ANSWER OF CERTIFICATE HOLDER**

9 Pursuant to ACJA § 7-201(H)(11), Moore shall file an Answer to this Notice of Formal
10 Statement of Charges within fifteen (15) days of receipt of this Notice. Moore's Answer shall
11 comply with Rule 8 of the Arizona Rules of Civil Procedure. Any defenses not raised in the
12 Answer are waived. If Moore fails to file an Answer within the time provided, she is in default
13 and the factual allegations in the formal charges are deemed admitted and the Board may
14 determine the matter against her. Moore's Answer shall be filed with the Certification and
15 Licensing Division, Disciplinary Clerk and Hearing Office, Suite 104, 1501 West Washington,
16 Phoenix, Arizona 85007.

18 **NOTICE OF RIGHT TO HEARING**

19 Pursuant to ACJA § 7-201(H)(12), Moore may request a hearing within fifteen (15)
20 days of receipt of the Notice of Formal Charges and Right to Hearing. The request for hearing
21 must comply with ACJA § 7-201(H)(12) and shall be filed with the Certification and Licensing
22 Division ("Division"), Disciplinary Clerk and Hearings Unit, 1501 West Washington, Suite
23 104, Phoenix, Arizona. If Moore does not timely file a request for hearing, she will not have a
24 right to a hearing.
25

BACKGROUND FACTS

1. On April 15, 2010, the Division received a written complaint from consumer Philip Shelton ("Shelton") involving Moore.

2. On April 16, 2010, the Division sent Moore a copy of the complaint and notice of the ACJA § 7-201(H)(3)(c) requirement she submit a written response to the complaint within thirty (30) days. Division records confirm delivery of the mailing on April 19, 2010.

3. Moore failed to submit a written response to the complaint as required by ACJA § 7-201(H)(3)(c).

FACTUAL ALLEGATIONS OF MISCONDUCT

The Board, having knowledge sufficient to form a belief as to the truth of this information, hereby alleges and finds as follows:

7. On April 15, 2010, the Division received a written complaint from Shelton alleging he hired and paid Moore to prepare a *Change of Venue* document. Shelton reported Moore failed to prepare the document as agreed upon. Shelton submitted a copy of Moore's business card and of the check he made payable to Moore for document preparation services in the amount of \$175.00, dated February 9, 2010.

8. Division Investigator Karla Clanton ("Investigator Clanton") reviewed Moore's business card supplied by Shelton. The business card reads, "MOHAVE COUNTY PARALEGAL LLC" at the top of the card and directly beneath the business name states, "State Certified". Investigator Clanton reviewed Division records and determined Mohave County Paralegal, LLC ("Mohave Paralegal") is not and has never been certified as a legal document preparation business entity.

9. Division records reflect Moore listed herself as a sole proprietor operating Moore's Paralegal Service on her 2003 application individual certification. Moore's 2007 individual certification renewal application reported Moore was self-employed by Mohave County

1 Paralegal, LLC. Moore's 2009 individual renewal application reported Moore was operating
2 as a sole proprietor using the business name Mohave County Paralegal.

3 10. Investigator Clanton conducted an online search for "Mohave Paralegal" and
4 discovered yellow page listings for Mohave Paralegal and Moore's Paralegal Service. One
5 yellow page listing for Moore's Paralegal Service stated, "BUSINESS SERVICES Additional
6 Phone Numbers AKA Mohave County Paralegal Services, LLC in Business Since 1999."
7 Further examination of the various yellow page listings for the two businesses determined three
8 different addresses and two separate telephone numbers. The yellow page listings appeared as
9 follows:

10 Mohave County Paralegal Service
11 4305 Stockton Hill Road, #F, Kingman, AZ
(928) 692-5535

12 Mohave County Paralegal Services, LLC
13 2916 Stockton Hill Road, Suite B, Kingman, AZ
(928) 718-1593

14 Moores Paralegal Service, Inc.
15 3269 Stockton Hill Road, Kingman, AZ 86409
16 928-692-5535

17 Moore's Paralegal Service
18 4305 Stockton Hill Road, F, Kingman, AZ 86409
(928) 692-5535

19 11. The business card Shelton received from Moore listed Mohave Paralegal with the
20 address of 4305 Stockton Hill Road, Suite F, in Kingman with telephone numbers (928) 692-
21 5535 and (928) 718-1593.

22 12. An online query of Arizona Corporation Commission ("ACC") records confirmed
23 Mohave County Paralegal is an Arizona limited liability company and Moore is the Statutory
24 Agent and a Member and Manager of the LLC. Online ACC records reflect the LLC was
25 formed on December 4, 2006 and remains active and in good standing. ACC records do not
contain any information pertaining to Moore's Paralegal Service. However, Arizona Secretary

1 of State Notary Division records identify Moore's Paralegal Service located at 2916 Stockton
2 Hill Road #D, in Kingman as Moore's business address associated with her notary
3 commission.

4 13. On April 16, 2010, the Division sent Moore a copy of the complaint along with a letter
5 notifying Moore of the ACJA § 7-201(H)(3)(c) requirement she provide a written response to
6 the complaint within thirty (30) days. Division records reflect the mailing was delivered on
7 April 19, 2010. Moore failed to submit a written response to the complaint.

8 14. On May 24, 2010 and at Investigator Clanton's request, Shelton confirmed he did not
9 sign a contract for services with Moore. Shelton stated, "She took my check and that was it. I
10 contacted her and set up an appointment and the day of the appointment she wasn't there."
11 Shelton asserted, "To this date, I have received nothing in return for my check." Shelton noted
12 there was a witness who could confirm Shelton paid the \$175.00 to Moore to prepare the
13 *Change of Venue* document. Shelton reported a friend was present at his initial meeting with
14 Moore and provided the name and contact information of his friend for verification purposes.

15 15. On May 25, 2010, Investigator Clanton conducted a telephonic investigatory interview
16 with Shelton. Shelton reported he hired Moore during the first week of February of 2010, but
17 he initially met with a secretary (name unknown) at the business office location, noting Moore
18 was not in at the time. Shelton reported he discussed the type of document he needed Moore to
19 prepare and the secretary took copies of the paperwork Shelton had received from the Court.
20 Shelton indicated the secretary had him sign a statement regarding Moore which disclosed
21 Moore had a medical condition and was receiving treatment for the condition. Shelton was
22 asked to sign the disclosure only if he still wanted Moore to provide the document preparation
23 services after having received notice of her medical condition. Shelton indicated he did not
24 receive a copy of the disclosure document he signed.

25 16. Shelton reported he met Moore personally approximately one month after he paid the
fee for Moore to prepare the legal document. Shelton indicated Moore failed to contact him

1 regarding the *Change of Venue* document which prompted him to make a trip to Moore's
2 office. Shelton indicated Moore was in the office when he arrived and she apologized for not
3 contacting him or preparing the document and Moore purportedly assured him she would make
4 sure he received the document by March 3, 2010. At this meeting, Moore allegedly scheduled
5 a follow up appointment with Shelton. Shelton reported Moore failed to show up for the
6 scheduled follow-up appointment. Shelton stated when he arrived for the follow up
7 appointment he was told by Moore's secretary that Moore was in Phoenix for a doctor's
8 appointment. Shelton was told his appointment would be rescheduled but no one ever
9 contacted him to reschedule. Shelton noted he made additional trips to Moore's office but at
10 each subsequent visit the office was closed.

11 17. Shelton reported he requested a refund from Moore after his court date had passed and
12 he still had not received the *Change of Venue* document. Shelton stated he mailed his request
13 for a refund to Moore's office but never received a response. On May 29, 2010, Shelton
14 provided a copy of the cancelled check he wrote to Moore, made payable to Moore personally,
15 for legal document preparation services in the amount of \$175.00, dated February 9, 2010.

16 18. Shelton reported his friend, Allen MacIssac ("MacIssac"), was present when Shelton
17 initially went to Moore's office and ultimately hired Moore to prepare the *Change of Venue*
18 document. On May 26, 2010, Investigator Clanton conducted an investigatory interview with
19 MacIssac. MacIssac confirmed he was present when Moore's secretary agreed Moore would
20 prepare the *Change of Venue* document and when Shelton wrote a check made payable to
21 Moore personally in the amount of \$175.00 for legal document preparation fees.

22 FORMAL CHARGES

23 19. Moore violated ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (J)(4)(a) and (J)(4)(b) by
24 failing to prepare the agreed upon, paid for and promised *Change of Venue* legal document for
25 Shelton; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and
(H)(6)(k)(3).

20. Moore violated ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(1)(a) by failing to act in a manner that promotes public confidence in the integrity of the legal system when she failed to respond to Shelton's request for a refund of the legal document service fees regarding the services Moore did not provided; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

21. Moore violated ACJA § 7-201(H)(3)(c) by failing to submit the required written response to the complaint; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

22. Moore violated ACJA § 7-201(E)(5) and (F)(1) and ACJA § 7-208(E)(1), (F)(2) and (J)(1)(d) by circulating a business card that improperly identifies Moore's limited liability company, Mohave County Paralegal, LLC, as "State Certified"; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d) and (H)(6)(k)(3).

23. Moore violated ACJA § 7-208(E)(3)(d)(1) by failing to obtain and maintain business entity certification for Mohave County Paralegal, LLC; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(d) and (H)(6)(k)(3).

PROPOSED DISCIPLINARY SANCTIONS

The Board, based on the foregoing factual allegations of misconduct, is seeking the following disciplinary sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Issue a Letter of Concern to Elizabeth Moore, pursuant to ACJA § 7-201(H)(24)(a)(6)(a);
- b) Require Mohave County Paralegal, LLC to comply with ACJA § 7-208(E)(3)(d)(1) and apply for business entity certification within 60 days of Moore receiving notice of entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(d);
- c) Order Moore to reimburse Philip Shelton the amount of \$175.00 and order Moore to submit documentation of the fulfilled reimbursement within 30 days of Moore

1 receiving notice of entry of the Board's Final Order , pursuant to ACJA § 7-
2 201(H)(24)(a)(6)(d);

3 d) Assess costs associated with the investigation and any related administrative
4 proceedings, to be remitted no later than 60 days following entry of the Board's Final
5 Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,

6
7 e) Impose a civil penalty in the amount of \$1,250.00, an amount Mohave County
8 Paralegal, LLC would have paid for certification application and renewal fees during
9 the 2007-09 and 2009-11 certificate periods, to be remitted no later than sixty (60) days
10 following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

11 DATED this 8 day of December, 2010.

12
13 

14 Les Krambeal, Chair
15 Board of Legal Document Preparers
16
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23
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25

1 An original copy of the foregoing to be served to:

2 Elizabeth Moore
3 4305 Stockton Hill Road, Suite F
4 Kingman, Arizona 86409


5 The original copy of the foregoing hand delivered and/or mailed this 8th day of December
6 2010, to:

7 Rex Nowlan
8 Administrative Law Section
9 Office of the Attorney General
10 15 South 15th Avenue, 4th Floor
11 Phoenix, Arizona 85007

12 Nina Preston, Assistant Counsel
13 Administrative Office of the Court
14 1501 West Washington
15 Phoenix, Arizona 85007

16 Certification and Licensing Division
17 Arizona Supreme Court
18 1501 West Washington, Suite 104
19 Phoenix, Arizona 85007

20 By:

21 
22 Debbie MacDougall, Programs Specialist
23 Certification and Licensing Division
24
25

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP MOORE, ELIZABETH 10-L012\NFC MOORE 10-L012.DOC

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

2) REVIEW OF PENDING COMPLAINTS

2-D: Review, discussion and possible action regarding the proposed Consent Agreement resolution of complaint number 09-L055 involving Jill Smith and Titan Lien Services.

On April 25, 2011, the Board reviewed and considered complaint number 09-L055 involving certificate holders Jill Smith ("Smith") and Titan Lien Services ("Titan"). The case summary is attached. The Board accepted the finding of the Probable Cause Evaluator, dismissed Allegation 1, and determined grounds for formal disciplinary action exists regarding Allegations 2 and 3.

As ordered by the Board, the certificate holders were given written notice of the Board's action and were provided an opportunity to enter a Consent Agreement in advance of the filing of the Notice of Formal Statement of Charges. On May 4, 2011, the attached letter and documentation from Smith and Titan was delivered to the Division offering a proposed alternative Consent Agreement. The alternative Consent Agreement eliminates both the proposed Censure to Titan and the proposed Letter of Concern to Smith, eliminates the proposed additional 3-hour continuing education mandate for Smith, eliminates the proposed civil penalty, and asserts Smith and Titan were authorized and held authority to established by way of contractual "Service Agreements" to act as "limited agent" of Titan's customers when signing lien documents. In the alternative Consent Agreement, Smith and Titan are offering to pay the proposed costs assessment in the amount of \$204.66.

It is recommended the Board the reject the proposed alternative Consent Agreement, order the filing of the Notice of Formal Statement of Charges in complaint number 09-L055, and authorize the Chair to sign the Notice of Formal Statement of Charges on behalf of the full Board.

NOTE: The proposed costs of \$204.66 include the investigative costs and will increase once expenses for formal proceedings are incurred.

TITAN LIEN SERVICES, INC

April 29, 2011

Board of Legal Document Preparers
1501 West Washington St
Phoenix AZ 85007-3231

Re: Complaint Number 09-L055

Dear Board of Legal Document Preparers,

I received the Consent Agreement on April 28, 2011. I believe that said investigation was insufficient and lacking. I am disappointed that the investigation solely included a letter to me and an email inquiring regarding an employee. I was never questioned nor asked for an explanation regarding my services. I never received notification that my complaint was being reviewed by the Board on April 25, 2011.

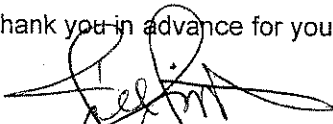
As to allegation 2 – I admit failure to include my personal certificate number on said documents. At the time of the complaint, I understood the certificate requirement such that I needed to include the business certification. I was unaware of the requirement to provide redundancy in certificate numbers. Since the original complaint has been filed, I have correctly been providing both certificate numbers on the legal documents I prepare.

As to allegation 3 – I am authorized to act as limited agent for Titan customers. During the investigation, Investigator Posante, states that he reviewed Titan's website. As such he had direct access to a copy of the attached Service Agreement. This service agreement gives Titan Lien Services authorization as limited agent to "execute preliminary notices or related claim notices and to complete the requisite declarations of service" for Titan customers (see attachment). I am including the service agreements for both Pro-Energy Electric and Apache Plumbing Services which gives direct authorization for the liens that were stated in the complaint.

I do provide legal services. And I am authorized to do so by the Arizona Supreme Court Rule 31(d)(24): "In all other cases, a mediator who is not a member of the state bar and who prepares or provides legal documents for the parties without the supervision of an attorney must be **certified as a legal document preparer** in compliance with the Arizona Code of judicial Administration, Part 7, Chapter 2, Section 7- 208." (emphasis added). I am acting within my rights and obligations as a legal document preparer to send 20-day preliminary notices, prepare mechanic's lien claims and other related document and notices on behalf of Titan customers.

Attached is an amended Consent Agreement. I am sending this to the Board for consideration and acceptance. I believe that Censure for Titan Lien is unfounded. Titan Lien has acted within the scope of its authority and obligations as limited agent to its customers. I do not think that a Letter of Concern for Jill Smith, in regards to including my name, title and certificate number, is necessary as I have already corrected that issue. Additional continuing education for allegations that have already been corrected would be a waste of time. I do agree to pay for the costs associated with the investigation totaling \$204.66. A civil penalty for said allegations is absurd and I will not agree to pay it.

Thank you in advance for your time,



Jill Smith
Certificate Number 80894
Designated Principal for Titan Lien Services
Certificate Number 80895

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Case No.: 09-L055

CONSENT AGREEMENT

And

TITAN LIEN SERVICES,
Certificate Number 80895.

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1 On March 18, 2011 Probable Cause Evaluator Mike Baumstark entered a finding
2 probable cause exists as to Allegations 2 and 3 in complaint number 09-L055.

3 On April 25, 2011, the Board accepted the finding of the Probable Cause Evaluator
4 regarding Allegations 2 and 3 in complain number 09-L055 and entered a finding grounds for
5 formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of
6 misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA §7-201(F)(1), and ACJA
7 § 708(F)(2), (F)(3), (F)(5)(c)(1), and (J)(5)(b). The Board further ordered this Consent
8 Agreement resolution of the formal disciplinary action be offer to Smith and Titan in advance of
9 the filing of a Notice of Formal Statement of Charged. By entering this Consent Agreement,
10 Smith and Titan understand they waive their right to a hearing regarding complaint number 09-
11 L055 and agree to the following Consent Agreement provisions pursuant to ACJA § 7-
12 201(H)(24)(a)(6)(c):

13 1. The Board finds that Smith failed to include her, name, title and certificate number on
14 lien documents filed with the Maricopa County Recorder's Office and recorded as document
15 numbers 2009-0498608 and 2009-0503176.

16 2. The Board orders and Smith agrees to acknowledge failure to include her, name, title and
17 certificate number on lien documents. Smith agrees to accurately include her name, title and
18 certificate number as required by ACJA § 7-208(F)(3) hereafter.

19 3. Upon further investigation, the Board finds that Smith and Titan were authorized and had
20 authority per the attached Service Agreements, Arizona Supreme Court Rule 31(d)(24) and
21 ACJA § 7-208 to act as "limited agent" for Titan customers.

22 4. The Board assesses and Smith and Titan Agree to pay the costs associated with the
23 investigation and the related administrative proceedings involving complaint number 09-L055 in
24 the amount of \$204.66, pursuant to ACJA § 7-201(H)(24)(a)(6)(j). Smith and Titan shall remit
25 the assessed costs to the Certification and Licensing Division, 1501 West Washington, Suite 104,
26 Phoenix, Arizona 85007, made payable to the "Arizona Supreme Court" within 60 days of the
27 Board's entry into this Consent Agreement.

1 5. Smith and Titan understand failure to comply with the terms of this Consent Agreement
2 may result in the Board taking further disciplinary action or denying renewal of certification.

3 Enter into on this date by:

Entered into on this date by:

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7 Jill Smith Date
8 Certificate Number 80894
9 Designated Principal for Titan Lien Services
10 Certificate Number 80895
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Les Krambeal, Chair Date
Board of Legal Document Preparers

1 An original copy of the foregoing hand delivered and/or mailed this ____ day of _____,
2 2011, to:

3 Jill Smith
4 Titan Lien Services
5 }

6 Rex Nowlan
7 Administrative Law Section
8 Arizona Attorney General's Office
9 15 South 15th Avenue
10 Phoenix, Arizona 85007

11 Nina Preston, Assistant Counsel
12 Administrative Office of the Court
13 1501 West Washington
14 Phoenix, Arizona 85007

15 Certification and Licensing Division
16 Arizona Supreme Court
17 1501 West Washington, Suite 104
18 Phoenix, Arizona 85007

19 By: _____
20 Debbie MacDougall, Programs Specialist
21 Certification and Licensing Division
22

23 Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP TITAN LIEN SERVICES 09-L055\CONSENT
24 AGREEMENT TITAN SMITH 09-L055.DOCX
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TITAN LIEN SERVICES

PRELIMINARY NOTICE AND LIEN PREPARATION

Service Agreement

Titan Lien Services Inc, an Arizona Corporation (herein after "Titan Lien Services") will provide clerical and related information gathering services for the preparation and purpose of preliminary notices, and all related claims relating thereto according to the following terms and conditions.

1. Titan Lien Services will prepare and process preliminary notices/claims for customers, after receiving such requests in writing, via-email, by telephone, or fax, from the customer or an authorized agent for said customer. The customer agrees to provide the following information:

- Customer's name, address and telephone number
- Job site name and address
- Materials and/or labor to be furnished
- Owner, General Contractor, and Lender Information (if known)
- Date job started or planned starting date
- Estimated cost of labor and/or materials to be supplied to said job

The customer will provide above information within a minimum lead time of 5 working days, for processing and service, except for expedited service offered by Titan Lien Services.

Titan Lien Services will gather all appropriate information from one or more of the following public and private sources:

- Direct contact with the reputed Contractor, reputed Owner of the real property and or direct contact with the reputed lender
- Ownership information from county tax assessment records, and or building permits on file in the city or county of the job site.

The services provided by Titan Lien Services are designed to provide all customers with accurate and timely preparation and service of preliminary notices and all related claim notices. Every reasonable effort will be made to gather reliable information, all information is gathered from outside public records and private sources without independent verification. Accordingly, no representation is made as to its ultimate accuracy.

Titan Lien Services are provided with the express knowledge that we do not engage in providing legal advice, and are not in the practice of law.

The customer agrees to hold Titan Lien Services, it's officers, agents, and employees harmless for all claims resulting from any loss, damage or injury, of any and every nature whatsoever, including special or consequential damages, including attorney's fees resulting from, or in any way connected with the preparation, service, and/or recording of preliminary notices, related claim notices, or other services rendered.

The customer appoints Titan Lien Services as limited agent to execute preliminary notices or related claim notices and to complete the requisite declarations of service. Titan Lien Services will provide a completed copy of each preliminary notice and/or related claim notice to customer.

The customer agrees to pay for the above referenced services upon receipt of invoices and billings generated on a monthly basis. All invoices are due in full by the 20th of the month. The customer agrees to pay a 1 1/2 % service charge on all balances outstanding after the 20th. (minimum \$1.00) In the event of a default in payment, the customer agrees to pay reasonable attorney fees and collection costs if any part of the account is placed with an attorney or collection agency, whether or not court action is taken or a judgment is rendered.

Accepted By:

Name: Dorothy Davis
(Please Print)

Dorothy Davis
(Signature of Authorized Agent)

Apache Plumbing Services
(Company Name)

(City, State, Zip Code)

Phone:



TITAN LIEN SERVICES

PRELIMINARY NOTICE AND LIEN PREPARATION

480-380-3434 FAX 480-380-3636

Service Agreement

Titan Lien Services Inc, an Arizona Corporation (herein after "Titan Lien Services") will provide clerical and related information gathering services for the preparation and purpose of preliminary notices, and all related claims relating thereto according to the following terms and conditions.

1. Titan Lien Services will prepare and process preliminary notices/claims for customers, after receiving such requests in writing, via-email, by telephone, or fax, from the customer or an authorized agent for said customer. The customer agrees to provide the following information:

- Customer's name, address and telephone number
- Job site name and address
- Materials and/or labor to be furnished
- Owner, General Contractor, and Lender information (if known)
- Date job started or planned starting date
- Estimated cost of labor and/or materials to be supplied to said job

The customer will provide above information within a minimum lead time of 5 working days, for processing and service, except for expedited service offered by Titan Lien Services.

Titan Lien Services will gather all appropriate information from one or more of the following public and private sources:

- Direct contact with the reputed Contractor, reputed Owner of the real property and or direct contact with the reputed lender
- Ownership information from county tax assessment records, and or building permits on file in the city or county of the job site.

The services provided by Titan Lien Services are designed to provide all customers with accurate and timely preparation and service of preliminary notices and all related claim notices. Every reasonable effort will be made to gather reliable information, all information is gathered from outside public records and private sources without independent verification. Accordingly, no representation is made as to its ultimate accuracy.

Titan Lien Services are provided with the express knowledge that we do not engage in providing legal advice, and are not in the practice of law.

The customer agrees to hold Titan Lien Services, it's officers, agents, and employees harmless for all claims resulting from any loss, damage or injury, of any and every nature whatsoever, including special or consequential damages, including attorney's fees resulting from, or in any way connected with the preparation, service, and/or recording of preliminary notices, related claim notices, or other services rendered.

The customer appoints Titan Lien Services as limited agent to execute preliminary notices or related claim notices and to complete the requisite declarations of service. Titan Lien Services will provide a completed copy of each preliminary notice and/or related claim notice to customer.

The customer agrees to pay for the above referenced services upon receipt of invoices and billings generated on a monthly basis. All invoices are due in full by the 20th of the month. The customer agrees to pay a 1 1/2 % service charge on all balances outstanding after the 20th, (minimum \$1.00) In the event of a default in payment, the customer agrees to pay reasonable attorney fees and collection costs if any part of the account is placed with an attorney or collection agency, whether or not court action is taken or a judgment is rendered.

Accepted By:

Name: Joe Akin
(Please Print)

(Signature of Authorized Agent)

Email address

Referred by: Phone Book

Pro-Energy Electric LLC
(Company Name)

(Address)

(City, State, Zip Code)

Phone: 480

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**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Jill Smith
	Certification Number:	80894
	Business Name:	Titan Lien Services
	Certificate Number:	80895
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	Name:	Mel Gustafson
INVESTIGATION INFORMATION	Complaint Number:	09-L055
	Investigator:	Tony Posante
	Complaint Received:	August 5, 2009
	Complaint Forwarded to the Certificate Holder:	August 11, 2009
	Response From Certificate Holder Received:	August 19, 2009
	Report Date:	June 22, 2010

The investigation of this complaint included review of the following:

- Written complaint and documentation submitted by complainant Mel Gustafson ("Gustafson")
- Written response and documentation submitted by certificate holder Jill Smith ("Smith"), designated principal for Titan Lien Services ("Titan")
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, and Arizona Supreme Court Rules

ALLEGATION ALLEGED BY COMPLAINANT:

1. Titan and its employees are preparing legal documents without certification.

ADDITIONAL ALLEGATIONS:

2. Smith failed to place her individual name and certification number on documents she, as the designated principal of Titan, was responsible for which were filed with the Maricopa County Recorder's Office under numbers 2009-0498608 and 2009-0503176, as required by ACJA § 7-203(F)(3).
3. Smith acted in a representative capacity by signing recorded legal documents as the "limited agent" of Titan customers without the authority to do so, in violation of Arizona Supreme Court Rule 31 and ACJA § 7-208.

SUMMARY OF INVESTIGATION:

Gustafson, President of Prelien Services, LLC, submitted a written complaint alleging Titan and employees, specifically Black, were preparing twenty day preliminary notices and mechanics liens without certification.

Smith provided a response indicating both she and the business are certified. Smith confirmed Titan's Assistant Manager, Black, was an ACJA § 7-208(F)(5) trainee who worked under Smith's supervision.

INVESTIGATION:

Titan and Smith were granted certification effective September 18, 2006. Titan and Smith have successfully renewed their certification without interruption and their certification is active through the current certification period ending June 30, 2011. Smith is the designated principal of record for Titan. Black was an ACJA § 7-208(F)(5) trainee from May 2007 until April 2010 and is no longer employed at Titan.

On August 5, 2009, the Division received a written complaint from Gustafson regarding Titan and Black. Gustafson's complaint reads:

The company and/or employees are not certified as Legal Document Preparers. The company and/or employees are preparing and signing 20-day preliminary notices and/or mechanics liens. Website: www.titanlien.com Maricopa County recorder Document #'s: 2009-0498608, #2009-0503176 (these are an example of the documents being prepared/signed by company an/or (sic) employees. The 20-day preliminary notice is normally at the end of the document.) There are numerous filings with the Maricopa County Recorder where Ms. Black signs the preliminary notice/and or (sic) Mechanics Lien.

Gustafson's complaint included copies of documents recorded with the Maricopa County Recorder's Office in 2009-0498608, including:

- *Notice and Claim of Mechanics Lien* dated June 1, 2009 and signed by Karen Bei, Owner of Pro-Energy Electric, LLC. The document header contains the information "Titan Lien Services AZ CLDP#80895". The document does not contain the name, title or certification number of an individual legal document preparer responsible for the document.
- *Affidavit and Proof of Service Twenty Day Notice* dated May 29, 2009 and signed by Black under the descriptor "Acting as Limited Agent for Pro-Energy LLC". The Affidavit is notarized by Smith. The Affidavit contains the statement, "Sandy Black being duly sworn upon her oath deposes and says THAT he/she is the Assistant Manager of Titan Lien Services who are acting in their capacity as Limited Agents for Pro-Energy Electric LLC located at 700 W Bentrup St, Chandler, AZ 85225". The Affidavit does not contain Titan's name, title or certificate number or the name, title or certification number of an individual legal document preparer responsible for the document.

- *Twenty Day Preliminary Notice* dated December 2, 2008 and signed by Smith and containing the statement, "Prepared by Titan Lien Services, Inc. Acting as limited agent for: Pro-energy Electric LLC". The document header contains the information "AZ LDP Cert#80895" but does not contain the name of the certified business entity or the name, title or certification number of an individual legal document preparer responsible for the document.

Division Investigator Tony Posante ("Investigator Posante") obtained copies of documents from the Maricopa County Recorder's website regarding 2009-0503176, including:

- *Notice and Claim of Mechanics Lien* dated May 29, 2009 signed by Gordon Gaisford, Office Manager for Apache Plumbing Services. The document header contains the information "Titan Lien Services AZ CLDP# 80895". The document does not contain the name, title or certification number of an individual legal document preparer responsible for the document.
- *Affidavit and Proof of Service Twenty Day Notice* dated May 26, 2009 and signed by Black under the descriptor "Acting as Limited Agent for Apache Plumbing Services". The Affidavit is notarized by Smith. The affidavit contains the statement, "Sandy Black being duly sworn upon her oath deposes and says THAT he/she is the Assistant Manager of Titan Lien Services who are acting in their capacity as Limited Agents for Apache Plumbing Services located at 6832 N 24th Dr. #2 Phoenix, AZ 85015". The Affidavit does not contain Titan's name, title or certificate number or the name, title or certification number of an individual legal document preparer responsible for the document.
- *Twenty Day Preliminary Notice* dated February 9, 2009 and signed by Smith containing the statement, "Prepared by Titan Lien Services, Inc. Acting as limited agent for: Apache Plumbing Services". The document header contains the information "AZ LDP Cert# 80895" but does not contain the name of the certified business entity or the name, title or certification number of an individual legal document preparer responsible for the document.

Investigator Posante queried Arizona Corporation Commission records for Pro-Energy Electric, LLC. Neither Smith nor Black are identified as part of the ownership structure of the LLC. Apache Plumbing Services is a dba of Lacy Rain, LLC, according to an invoice filed with the lien documents. Neither Smith nor Black are identified as part of the ownership structure of Lacy Rain, LLC.

On August 11, 2009, the Division sent Titan and Smith a copy of the complaint along with a letter notifying Titan and Smith of the ACJA § 7-201(H)(3)(c) requirement they provide a written response to the complaint within thirty (30) days. Division records reflect Smith signed for the mailing on August 17, 2009.

On August 18, 2009, the Division received a written response from Titan, authored by Smith. Smith indicated former employee Black did not sign preliminary 20-day notices or liens. Smith noted Titan's policy is to have the customers sign their own liens. Smith

acknowledged she signs the preliminary 20-day notices. Smith's response also noted she had recently spoken with Division Investigator Alex Navarro ("Investigator Navarro") and had been advised of the requirement she provide her individual certification number on recorded liens as well as Titan's business entity name and number.

Investigator Posante reviewed ARS § 33-992.01(B), which states:

Except for a person performing actual labor for wages, every person who furnishes labor, professional services, materials, machinery, fixtures or tools for which a lien otherwise may be claimed under this article shall, as a necessary prerequisite to the validity of any claim of lien, serve the owner or reputed owner, the original contractor or reputed contractor, the construction lender, if any, or reputed construction lender, if any, and the person with whom the claimant has contracted for the purchase of those items with a preliminary twenty day notice as prescribed by this section.

On March 19, 2010, Honorable J. Richard Gama ("Judge Gama"), ruling on a matter unrelated to Titan, in Superior Court in Maricopa County case number CV2009-010336, found preliminary 20-day notices are legal documents. The Court's Minute Entry for this date states:

The Court does hold that the assistance herein provided to complete the process of securing a mechanic's lien, that is, the preparation of the 20 day preliminary notices does constitute the unauthorized practice of law. The preparation of this notice is a condition precedent to securing a legal right, i.e. a preferential lien on real property.

Investigator Posante reviewed ACJA § 7-208(F)(3), which states, in pertinent part:

Identification. Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP" and the legal document preparer's certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a nonjudicial agency or entity.

Investigator Posante reviewed ACJA § 7-208(F)(5)(c)(4), which states a designated principal who undertakes to train an employee shall:

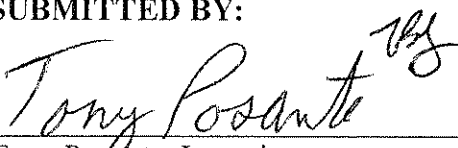
Provide the designated principal's name and certificate number, as required by subsection (F)(3), on any documents prepared by the trainee under the designated principal's supervision.

Investigator Posante reviewed Titan's website, www.titanlien.com. Titan's website contains a "Frequently Asked Questions" page. One question asks, "What is a Preliminary Notice?" The website explains, "The general purpose of a 20-day preliminary notice is to inform the property owner, lender and other interested parties that you are providing labor or materials for a project and that you are retaining your right to a lien in the event that you are not paid."

Investigator Posante reviewed Division records regarding ACJA § 7-208(F)(5) trainee Black. Division records reflect Black was first reported as an ACJA § 7-208(F)(5) trainee on Titan's May 3, 2007 certification renewal application. At the time of the complaint, Black had not exceeded the ACJA § 7-208(F)(5) maximum allowable trainee period of 2½ years. Black was not listed as a trainee on Titan's 2009-2011 renewal application submitted on May 7, 2009. On June 15, 2010, Investigator Posante sent Smith an email inquiring as to Black's current employment status. Smith responded the same day, stating, "Sandy Black is no longer employed with Titan Lien Services. She gave notice and finished her employ at the end of April 2010."

Maricopa County Recorder's Office records referenced above demonstrate Black signed two *Affidavit and Proof of Service Twenty Day Notice* documents with a provided descriptors identifying Black as an "Acting as Limited Agent for Apache Plumbing Services" and "Acting as Limited Agent for Pro Energy Electric LLC". The content of the Affidavit indicates Black placed copies of the respective preliminary 20-day lien notice in the mail to parties impacted by the preliminary 20-day lien notices. While acting under Smith's supervision as an ACJA § 7-208(F)(5) trainee, Black did not hold active legal document preparer certification and pursuant to ACJA § 7-208(F)(5)(c)(3), Smith was responsible to "Ensure the trainee is familiar with and adheres to the provisions of ACJA §§ 7-201 and -208".

SUBMITTED BY:


Tony Posante, Investigator
Certification and Licensing Division


Date

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE
EVALUATION and DECISION**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Jill Smith
	Certification Number:	80894
	Business Name:	Titan Lien Services
	Certificate Number:	80895
INVESTIGATION INFORMATION	Type of Certificate/License:	Legal Document Preparer
	Complaint Number:	09-L055
	Investigator:	Tony Posante

ANALYSIS OF ALLEGATIONS:

Allegation 1. Titan Lien Services ("Titan") and its employees are preparing legal documents without certification.

Division record reflect Titan and designated principal Jill Smith ("Smith") hold active legal document preparer certification and did so at the time the documents underlying this complaint were prepared. Additionally, at the time of the alleged misconduct, Titan employee Susan Black ("Black") was an identified Arizona Code of Judicial Administration ("ACJA") § 7-208(F)(5) trainee working under Smith's supervision. Therefore, Allegation 1 is not substantiated.

Allegation 2. Smith failed to place her individual name and certification number on documents she, as the designated principal of Titan, was responsible for which were filed with the Maricopa County Recorder's Office under numbers 2009-0498608 and 2009-0503176, as required by ACJA § 7-203(F)(3).

ACJA § 7-208(F)(3) states:

Identification. Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP" and the legal document preparer's certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a nonjudicial agency or entity.

No prohibition exists that expressly prohibits certified legal document preparers from placing the requisite identification information on documents recorded with the Maricopa County Recorder's Office. A review of the preliminary 20-day lien notices and liens filed with the Maricopa County Recorder's Office under numbers 2009-0498608 and

2009-0503176 reflect the documents contain part but not all of the required information regarding the certified legal document preparer business entity and fail to provide any of the required identification information for the individual preparer responsible for the document. Therefore, Allegation 2 is substantiated.

Allegation 3. Smith acted in a representative capacity by signing recorded legal documents as the "limited agent" of Titan customers without the authority to do so, in violation of Arizona Supreme Court Rule 31 and ACJA § 7-208.

The Arizona Supreme Court Rule 31 ("Rule 31") definition of the "practice of law" Rule 31 specifically includes, "Representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation." Rule 31(a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice". ACJA § 7-208 exists as an exemption to the prohibition of the unauthorized practice of law and provides specified authorized services a certified legal document preparer may offer to consumers not represented by an attorney.

ACJA § 7-208(F)(1) provides a list of "authorized services" a certified legal document preparer can provide to non-represented parties but this list does not include acting in a representative capacity on behalf of a consumer. ACJA § 7-201(F)(1) and § 7-208(F)(2) require all certified legal document preparers to comply with the subsection J of the Code of Conduct. ACJA § 7-208(J)(5)(b) states:

A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

ACJA § 7-208(F)(5)(c)(1) provides a designated principal who undertakes to train an employee shall:

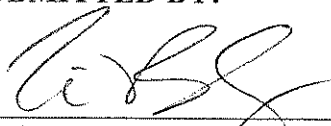
Assume personal professional responsibility for the trainee's guidance and any work undertaken and for supervising, generally or directly, as necessary, the quality of the trainee's work.

During the investigation, Smith acknowledged and Maricopa County Recorder's Office records reflect she signed preliminary 20-day lien notices on behalf of Titan customers Pro-Energy Electric, LLC and Lacy Rain, LLC dba Apache Plumbing. Smith does not have ownership interest in either LLC. No provision of law, court rule or ACJA authorizes Smith to serve as a "limited agent" for or sign documents for or on behalf of Titan customers.

Further, under Titan designated principal Smith's supervision, Black signed proof of service documents as the "limited agent" of Titan customers Pro-Energy Electric, LLC

and Lacy Rain, LLC dba Apache Plumbing without the authority to do so. Therefore, Allegation 3 is substantiated.

SUBMITTED BY:

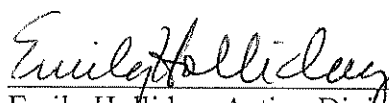
 6/23/10

Linda Grau, Unit Manager Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 09-L055 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause does not exist as to Allegation 1 and does exist as to Allegations 2 and 3.

SUBMITTED BY:

 3/2/11

Emily Holliday, Acting Division Director Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 09-L055, the Probable Cause Evaluator:


☐ requests division staff to investigate further.

☒ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

1.

☒ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#s 2 & 3.

 3/10/11

Mike Baumstark Date
Probable Cause Evaluator

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

<i>CERTIFICATE HOLDER INFORMATION</i>	Certificate Holder:	Jill Smith
	Certificate Number:	80894
	Business Name:	Titan Lien Services
	Certificate Number:	80895

**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 1 of complaint Number 09-L055. Regarding Allegations 2 and 3, it is recommended the Board enter a finding Titan Lien Services and Jill Smith ("Smith") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 09-L055.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1), and ACJA § 7-208(F)(1)(c)(1), (F)(2), (F)(3) and (J)(5)(b).

Mitigating Factors:

1. Absence of prior discipline. This is the first complaint involving Titan Lien Services and Smith. [ACJA § 7-201(H)(22)(b)(1)(a)]

Aggravating Factors:

None noted.

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law by acting in a representative capacity on behalf of a consumer as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public,

judicial system, and document preparer profession. Prior actions by the Board in other matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders, imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement. Most recently, the Board entered a Consent Agreement with certificate holder Alenda Martin to resolve formal disciplinary action against Martin for her having signed a Notice of Claim of Lien on behalf of a consumer.

In previous matters considered by the Board wherein found violations included a certified legal document preparer's failure to place their name, title and certificate numbers on document they prepared, the Board has issued Letters of Concern.

In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factors and also that in this case, although there was the potential for harm to the public, no actual harm occurred. Therefore, it is recommended the Board offer Titan Lien Services and Smith a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Titan and Smith that if they enter the Consent Agreement they waives their right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

- a) Issue a Censure to Titan Lien Services, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- b) Issue a Letter of Concern to Smith, pursuant to ACJA § 7-201(H)(a)(24)(6)(a);
- c) Order Smith to participate in no less than three (3) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
- d) Impose civil penalties in the amount of \$250.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Titan Lien Services and Smith decline the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended staff proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

SUBMITTED BY:

Emily Holliday 3/18/11
Emily Holliday, Acting Division Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 09-L055 and Titan Lien Services, certificate number 80895, and Jill Smith, certificate number 80894, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

☐ requests division staff to investigate further.

☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

☐ dismisses the complaint, and:

☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).

☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).

☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:

☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.

☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).

☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).

☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

☐ adopts the recommendations of the Division Director.

☒ does ~~not~~ adopt the recommendations of the Division Director and orders:

Assessment of costs of the investigation
and related disciplinary proceedings
in addition to recommended sanctions

Les Krambeal 04.25.11
Les Krambeal, Chair Date
Board of Legal Document Preparers

Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP TITAN LIEN SERVICES 09-L055\CASE SUMMARY
09-L055.DOCX

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – June 27, 2011

3) ADMINISTRATIVE ISSUESDivision Staff

3-A: Farewell to exiting board members.

The term of appointment of the following Board of Legal Document Preparer members expire on June 30, 2011:

Judge Robert H. Oberbillig
Cynthia S. Felton
Stephanie Gates Wolf

The staff of the Certification and Licensing Division extends their appreciation to these members for their dedication during their term(s) of appointment.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

4) INITIAL CERTIFICATION APPLICATIONS

4-A: *Review, discussion and possible action regarding the following pending applicants for 2011-2013 certification.*

The following applications remain incomplete pending receipt of additional information. It is tentatively recommended these applicants be deferred to the July meeting. In the event the anticipated information/documentation is received prior to the June meeting, an alternative verbal recommendation will be presented at the meeting:

1. Alison N. Torba
2. Elise G. Gutierrez
3. Alejandra McEwen
4. Veronica Rolley
5. Lisa Perez-Leon
6. Krystina J. Ehrlich
7. Ana C. Dabbs
8. Jimmie E. Cannon
9. Jennifer M. Stupski
10. Linda M. Whittle
11. Carl R. Cunningham
12. Laurel L. Buldoc
13. Rondi A. Siegel
14. Leonard W. Deehan
15. Lien Solutions, Inc (Marlene S. Morton)
16. Perez Paralegal Group, LLC (Lisa Perez-Leon)
17. PSK Docs, LLC (Penny S. King)
18. Docuprep Solutions, LLC (Cassandra J. Wagner)
19. Siegel Document Preparation, LLC (Rondi A. Siegel)
20. Wellth Life, LLC (Carissa Olson)

The following applications were received and processed for Board review:

21. Sin Abogados, Inc. (Tannya R. Gaxiola Gaxiola) – Applicant disclosed one of the members of the business being involved in several civil actions. See enclosed. **It is recommended the Board grant standard certification to the business effective July 1, 2011.**
22. Shari L. Nestor – Applicant failed to disclose a civil action on her application. Applicant states she was not aware of the existence of the action. See enclosed. **It is recommended the Board grant standard certification to the applicant effective July 1, 2011, and direct staff to include language regarding non-disclosure on future applications may result in denial or disciplinary action.**

23. Cynthia M. Cooks – Applicant disclosed having several misdemeanors ranging from 1991 to 2006. See enclosed. Also, application stated she is currently in numerous civil actions based on her position as a general liability claims examiner in multiple jurisdictions handling litigated files for her employer. However, she failed to disclose 6 civil actions involving her personally. See enclosed. **It is recommended the Board grant standard certification to the applicant effective July 1, 2011, and direct staff to include language regarding non-disclosure on future applications may result in denial or disciplinary action.**
24. Michelle Collard – Applicant has requested to withdraw her application. **It is recommended the Board accept her request and withdraw her application.**
25. AZTec Documents (Mitchell R. Varbel) – Applicant disclosed being arrested July 15, 1977 by the Maricopa Sheriff Department for vehicle manslaughter and received probation for one year. On February 5, 1980, the applicant was arrested by the Scottsdale Police Department for possession of cocaine; was found guilty and received 3 years probation and probation was discharged. On December 3, 1980, the applicant was arrested for possession of narcotics, however, no further information was provided by the applicant as the case was purged. On January 9, 2000, the applicant was arrested for DUI, served one day in jail and paid fine. Also, the applicant disclosed being involved in an ongoing civil action regarding an election fraud.

At the February 28, 2011, Board meeting, the Board deferred consideration of the business entity and requested information from legal counsel. At the April 25, 2011, Board meeting the Board received legal advice from Nina Preston and deferred the application. **It is recommended the Board go into executive session to receive information that is confidential by court rule.**

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Thursday, June 27, 2011

4) INITIAL CERTIFICATION APPLICATIONS

4-B: Review of Business Entity Exemption Request for the 2011-2013 initial certification period:

It is recommended the following Business Entity Exemption be granted:

1. Arizona Legal Ease, Inc. (Sheila R. Webster)

It is recommended the following Business Entity Exemption be deferred until the July 2011 meeting:

2. Lien Solutions, Inc (Marlene S. Morton)
3. Perez Paralegal Group, LLC (Lisa Perez-Leon)
4. PSK Docs, LLC (Penny S. King)
5. Docuprep Solutions, LLC (Cassandra J. Wagner)
6. Siegel Document Preparation, LLC (Rondi A. Siegel)

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

5) RENEWAL CERTIFICATION APPLICATIONS

5-A: *Review, discussion, and possible action regarding the following pending applications for renewal of certification:*

The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It is recommended renewal of standard certification be granted to the following individuals:

1. Julian Anderson
2. Kusum Behari
3. Daniel Benhaim
4. Brandee Berry
5. William Bowman
6. Scott Boyer
7. Suzette Brown
8. Jodi Brown
9. Teri Campbell
10. Debra Cassidy
11. Judith Celentano
12. Alicia Celis (Montes)
13. Paris Chacon
14. Glenda Collings
15. Misty Coppedge
16. Gina Cote
17. Joe Covarrubias
18. Diana Crouch
19. Bernadette Deangelis
20. Mary Dunn
21. Mary Jo Edel
22. Carolee Elliott
23. Bruce Evers
24. Susan Faris
25. Michael Figueroa
26. Brian Finn
27. Michael Fisher
28. Patrick Flanery
29. Jolie Fontana-Black
30. Lynn Forman

31. Christine Gant
32. Charlotte Hargreaves
33. Joel Heller
34. Mandi Hemming
35. Michael Jaimes
36. Nancy James
37. Kathryn Kaiser
38. Carol Keller
39. Linda Kellogg
40. John Kincaid
41. Lori Kort
42. Bernard Kruer
43. Elaine Lacasella
44. Erica Leblang
45. Elizabeth Lloyd
46. Janet Logan
47. Catharine Longman
48. John Mansell
49. Walter Marcus
50. Mary Marcus
51. Alyssa Marino
52. Deborah Michalowski
53. Emma Moreno
54. Patricia Morrison
55. Dottie Ohe
56. Carissa Olson
57. Matthew Osborn
58. Edward Osinski
59. Karen Paschall
60. Claudia Plotnick
61. Meghan Record
62. Amy Richardson
63. Richard Rochford
64. Victoria Roff
65. Oliver Ross
66. Lori Rutledge
67. Andrew Sarager
68. Eric Schoeller
69. David Sears
70. Linda Seger
71. Michael Shadel
72. Linda Shadel
73. Dale Shephard
74. Jenny Sieles
75. Dubravka Sinno
76. Dorothy Sollars

- 77. Eleanor Tarman
- 78. Teresa Valles

The following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. No information has been presented during the background review which is contrary to renewal of standard certification being granted and they have demonstrated they meet the minimum eligibility requirements for standard certification. Therefore, it is recommended the following certificate holders be granted renewal and, pursuant to ACJA §7-208(L)(9)(e) be assessed a delinquent CE fee of \$50.00 to be remitted no later than July 18, 2011.

- 79. Wendy Byford
- 80. Patricia Lewis
- 81. Daniel Peterson
- 82. Andrew Saper
- 83. Jette Stevens
- 84. Lidia Tagliarini

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

6) LICENSE AND ELIGIBILITY APPLICATION

6-A: Interview with and possible action regarding applicant Alan N. Ariav.

During the April meeting, the Board requested staff invite Alan N. Ariav to attend the June 27th meeting to provide additional information regarding his application.

Applicant was an Arizona licensed attorney. Applicant disclosed being suspended from the State Bar for 18 months; however, the Discipline Commission Order states 6 months and 1 day suspension. The suspension was due to the applicant representing a client in an employment matter and during a private mediation session, applicant made misrepresentations to the mediator and to the Attorney General's office. Applicant further misled the State about the amount of attorney fees incurred. Applicant states in his application he suffers from severe depression, anxiety, and bipolar disorder. His suspension arose out of the fact that he stopped seeing his psychiatrist and stopped taking his medication during that period. Applicant also failed to disclose 6 civil actions and a complaint filed with the State Bar UPL department.

Staff recommends the Board address the non-disclosure of the civil actions, the State Bar complaint, and the State Bar suspension and determine if the information presented is contrary to certification being granted.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

6) LICENSE AND ELIGIBILITY APPLICATION

6-B: *Review, discussion and possible action regarding Hearing Officer William O'Neil's Recommendation Report involving the denial of the certification application submitted by Amber R. Jackson.*

Attached is the Hearing Officer's Recommendation report regarding the denial of Ms. Jackson's certification application. Hearing Officer O'Neil recommends the Board uphold the earlier denial.

FILED

APR 29 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY ED

**BEFORE THE SUPREME COURT OF ARIZONA
LEGAL DOCUMENT PREPARER BOARD**

IN THE MATTER OF A LEGAL DOCUMENT
PREPARERS:

AMBER R. JACKSON
APPLICANT

**No. LDP-11-3
HEARING OFFICER'S REPORT
AND RECOMMENDATION**

**[Hearing Officer, Judge
William J. O'Neil]**

On August 13, 2010, Amber Jackson (Applicant) applied under oath by application for standard certification as an individual legal document preparer. The Board of Legal Document Preparers considered her application on February 28, 2011 and by letter dated March 2, 2011 denied her applications pursuant to Arizona Code of Judicial Administration Section 7-201 (E)(2)(c)(1). On March 15, 2011, Applicant timely requested a hearing as authorized under the Arizona Code of Judicial Administration Section 7-201 (H)(12). That hearing was held on April 22, 2011 before the Presiding Disciplinary Judge William J. O'Neil serving as a Hearing Officer. Applicant was represented by James L. Csontos, Jennings, Haugh & Cunningham, L.L.P. The Board of Legal Document Preparers was represented by Thomas C. Horne, Arizona Attorney General by Hunter Perlmeter. At the hearing sworn testimony was received, documentary evidence received and argument presented. Based on the foregoing, the Hearing Officer finds the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Pursuant to Article VI, Section 3 of the Arizona Constitution the Arizona Supreme Court has exclusive authority over the regulation of the practice of law. *Hunt v. Maricopa County Employees Merit Sys. Comm'n*, 127 Ariz. 259, 619 P.2d 1036 (1980); *In re Miller* 29 Ariz. 582, 244 P. 376 (1926); and *In re Bailey*, 30 Ariz. 407, 248 P. 29 (1926).
2. The Supreme Court established the Legal Document Preparer Program by Administrative Order No. 2003-14 on January 16, 2003.
3. The Arizona Code of Judicial Administration ("ACJA") Section 7-208 (A) defines that Legal Document Preparer "means an individual who is certified pursuant to this section to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter. An individual whose assistance consists merely of secretarial or receptionist services is not a legal document preparer."
4. One of the purposes of the Program is to establish professional standards and a code of conduct of professional responsibilities for certificate holders in a primary effort to protect the public from possible harm caused by non-lawyers providing legal services. ACJA Section 7-208 (C).
5. The Arizona Code of Judicial Administration is intended to protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner. *Id.*
6. Pursuant to the ACJA "Applicants shall file a completed application, signed and verified under oath with the program coordinator." ACJA Section 7-208 (E)(3)(b).
7. The Board of Legal Document Preparers issues certificates to qualified applicants. ACJA Section 7-208 (D)(4)(c)(3).
8. "The board shall grant an initial certificate to an individual applicant who meets the requirement of ACJA Section 7-208 (E)(3)(a)."
9. In addition to others, those requirements mandate:
 - (5) *The applicant shall also possess one of the following combinations of education or experience:*
 - (a) *a high school diploma or a general equivalency diploma evidencing the passing of the general education development test and*

1 a minimum of two years of law-related experience in one or a
2 combination of the following situations:

- 3 (i) under the supervision of a licensed attorney;
4 (ii) providing services in preparation of legal documents prior to
5 July 1, 2003;
6 (iii) under the supervision of a certified legal document preparer
7 after July 1, 2003;
8 or
9 (iv) as a court employee;
10 (b) a four-year bachelor of arts or bachelor of science degree
11 from an accredited college or university and a minimum of one year of
12 law-related experience in one or a combination of the following
13 situations:

- 14 (i) under the supervision of a licensed attorney;
15 (ii) providing services in preparation of legal documents prior to
16 July 1, 2003;
17 (iii) under the supervision of a certified legal document preparer
18 after July 1, 2003;
19 or
20 (iv) as a court employee.

21 **10.** All applicants must, in addition to meeting the requirements of
22 subsection (E)(3)(a) mentioned above, also meet examination
23 requirements of the ACJA Section 7-208 (E)(4)(a). Applicant met those
24 examination requirements and was notified of her passing grade on July
25 1, 2010. (Bates 15, Exhibit Book).

11. On August 18, 2010, Applicant applied for certification as a legal
document preparer. In her application she avowed she had never acted
as a legal document preparer or independent paralegal in Arizona or any
other state. (Bates 7, Exhibit Book).

12. Applicant avowed she did not have a four-year Bachelor of Arts of
Bachelor of Science Degree from an accredited college or university.

13. In response to the application request for "number of years of law-
related experience" in one or more of four listed categories, Applicant
listed "n/a" meaning non-applicable. (Bates 8, Exhibit Book).

14. Applicant acknowledged that she or her past or current business
entity had been contacted by the Supreme Court of Arizona
Administrative Officer of the Court on July 9, 2009 and that the
adversarial action taken was "pending." (Bates 9, Exhibit Book).

15. The Application asked, "Are you currently or have you ever been
assigned as an officer, member, statutory agent, manager, director,
partner or owner of a business entity?" Applicant responded "Yes" and

1 listed the name of the entity as Credit Management Assn. listing the date
2 as June, 2010. (Bates 9, Exhibit Book).

3 **16.** Kimberly Siddall is a Certification Specialist employed by the
4 Certification and Licensing Division Administrative Office of the Courts,
5 Arizona Supreme Court. She has served in that position since 2005. She
6 reviewed the application in this matter and made the initial conclusion
7 that Applicant did not qualify under the Code for certification.

8 **17.** On November 4, 2010, Kimberly Siddall emailed Applicant
9 requesting a copy of her high school diploma. In addition as a result of
10 her application answers she queried "Given the above requirement,
11 please provide information relating to your law related work experience."
12 She also requested Applicant to complete her application by listing all
13 work positions held from 12/85 to 2/90.

14 **18.** On November 10, 2010, Applicant responded to the email of
15 Kimberly Siddall attaching her high school diploma and providing the
16 information required from the application on her prior work positions
17 held. Regarding the other requirements, she listed generally "7 years
18 experience preparing preliminary notices, mechanic liens, lien releases,
19 stop notices and bond claims for the construction industry. Responsible
20 for attorney relationships in all 50 states." She also listed other areas of
21 work that were nonresponsive to the request made by Ms. Siddall.

22 **19.** Kimberly Siddall again requested Applicant to provide the name
23 and information of her supervising attorney to verify her supervision and
24 her claimed 7 years of experience preparing legal documents.

25 **20.** Rather than answer the question, Applicant referenced classes she
had taken. She also attached two letters, both written prior to her
application and both of which supported "Credit Manager Association's
request" for a certification and did not mention the Applicant.

21. Applicant concluded her application supplementation with a letter
dated April 8, 2011 from her supervisor Kim Lamberty of Credit
Management Association. The letter was non-responsive to the inquiry of
Ms. Siddall.

22. The Board denied her application by letter dated March 2, 2011
citing her "failure to meet the qualifications or eligibility requirements at
the time of the application as described in ACJA Section 7-208 (E)(3)(b)
(6)(a)."

23. Applicant timely requested a hearing. She stated in that request for
hearing that she felt her "experience and knowledge meet the
requirements mandated in ACJA Section 7-201 (E)(2)(c)(1): ACJA Section

1 7-208 (E)(3)(b)(6)(a): ACJA Section 7-208 (E)(3)(b)." She wrote "I have
2 met & possess all the qualities listed in section ACJA 7-208 (E)(b) for the
individual standard certification."

3 **24.** Section 7-201 (E)(2)(c)(1) states:

4 The board shall deny certification of the applicant if the
5 applicant does not meet the qualifications or eligibility
6 requirements at the time of the application described in
7 this section or the applicable section of the ACJA; or has
not submitted a complete application with all deficiencies
corrected, the applicable documents and fees.

8 **25.** The requirements of ACJA Section 7-208 (E)(3)(b)(6)(a) mandate
9 relevant education or experience to be "(i) Under the supervision of a
10 licensed attorney; (ii) Providing services in preparation of legal
documents prior to July 1, 2003; (iii) Under the supervision of a certified
11 legal document preparer after July 1, 2003; or (iv) As a court employee."

12 **26.** ACJA Section 7-208 (E)(3)(b) alternatively requires a four-year
13 bachelor degree from an accredited college or university *and* a minimum
of one year law-related experience under one of four described
circumstances.

14 **27.** Applicant acknowledged in her opening comments that she had not
15 worked under a licensed legal document preparer but questioned whether
the Code could be enforced.

16 **28.** Applicant is employed by Credit Management Association which
17 holds a "business" license and a "collections" license. There was no
evidence regarding any certification or state authorization for legal
18 document preparers.

19 **29.** While applicant works in the form filing division, she testified she
20 supervised the form filing department and "assists" with the preparation
of documents. She testified CMA prepares notices in all 50 states and
21 that "we" assist customers in all 50 states.

22 **30.** Applicant on occasion filled in forms but by her testimony
23 maintained files relating to document that had been prepared. In filling
out pre-existing forms which she did not prepare, she was never under
the supervision of any lawyer or document preparer.

24 **31.** Listed on her application is employment with Richardson
25 Construction Company, from September 2000 to March 2002. She
tracked jobs but did not prepare notices. She got the information for

1 notices. She generally testified that "we" prepared contracts but was
2 non-specific as to whether or not SHE prepared any contracts. The only
3 other work preceding her Richardson employment which related to
4 document preparation was with Unique Plastering Construction Co from
5 June 1997 to April 2000. Her applications simply listed as duties
"contracts, proposals..." She testified that she prepared proposals,
contracts, prelims, mechanic liens prep but did not record the
documents. She used standard pre-prepared forms and filled in the
information pertinent to the job.

6 **32.** Listed on her application is employment with Ribeiro Companies
7 from March 2002 to September 2003. There she filled in blanks on
8 prewritten contract forms among other duties. She did not draft 20 day
preliminary notices or similar documents as they were done by a different
department.

9 **33.** She worked temporary service jobs that were not related to
10 document preparation in between her employment with Ribeiro and her
present employer.

11 **34.** While her application acknowledges she was "assigned as an office
12 member, statutory agent, manager, director, partner or owner of Credit
Management Assn. her testimony denied such relationship.

13 **35.** The application contained multiple warnings that caution an
14 applicant of the potentially disqualifying result of misstating the
information provided. (Bates 6, 13, Exhibit Book).

15 **36.** Applicant swore under oath in the application that "I have read this
16 application form and that all statements are true and complete to the
17 best of my knowledge and belief and that my Authorization and Release
are freely given."

18 **37.** Applicant's testimony is inconsistent with her sworn application. In
19 her request for hearing, Applicant states that she possess qualifications
that she does not have.

20 **38.** Applicant does not meet the several experience requirements of
21 the ACJA.

22 **CONCLUSIONS OF LAW**

23 **1.** Legal Document Preparer certification carries with it great
24 responsibility and ethical duties in the provision of limited legal
25 serviced identified in ACJA Section 7-208 (F)(1)(a)-(e) independently
and directly to the public without the supervision of a lawyer in good
standing with the Bar. Assuring that the public is served competently
and ethically and is protected against dishonesty and other ethical

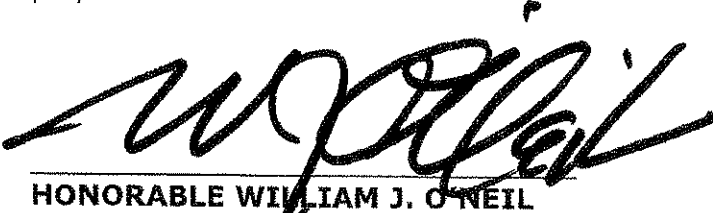
1 breaches is a major underpinning of the licensure and regulatory
2 provisions of the ACJA Section 7-201, 7-208(B) and (C).

- 3 2. The hearing in this matter was duly noticed and conducted.
- 4 3. All Findings of Fact set forth above that are properly considered to be
5 Conclusions of Law are reaffirmed as Conclusions of Law.
- 6 4. A material misrepresentation by the Applicant for initial certification
7 on her application or in connection with consideration of her eligibility
8 for certification casts serious doubt on whether the Applicant will
9 serve the public, as a trusted member of the judicial process, honestly
10 and without deception and misrepresentations. ACJA Section 7-
11 208(J).
- 12 5. To qualify for certification the Applicant must meet the several
13 experience qualifications specified within the ACJA. Applicant bears
14 the burden of proof in her appeal of denial of certification.
- 15 6. For these multiple reasons the Hearing Officer concludes Applicant
16 failed to meet her burden of proof that she met either of the
17 categories of requirements listed under the 7-208 Section
18 (E)(3)(b)(6).

19 **HEARING OFFICER'S RECOMMENDATION**

20 The Hearing Officer recommends that the denial of Applicant's application
21 for initial certification be affirmed and the Applicant's application for initial
22 certification be denied.

23 DATED this 29 day of April, 2011.

24 
25 **HONORABLE WILLIAM J. O'NEIL**
Hearing Officer, Legal Document Preparers

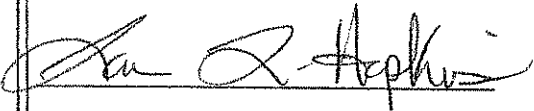
Original filed with the Disciplinary Clerk
this 29 day of April, 2011.

COPY of the foregoing mailed
this 29 day of April, 2011, to:

1 Thomas C. Horne
Attorney General

2 Hunter Perimeter
3 Assistant Attorney General
4 1275 W. Washington
Phoenix, AZ 85007-2997
5 Attorneys for the Legal Document
Preparers Program

6 James L. Csontos
7 Jennings, Haug & Cunningham L.L.P.
2800 N. Central Avenue, Suite 1800
8 Phoenix, AZ 85004-1049

9 
10

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

6) LICENSE AND ELIGIBILITY APPLICATION

6-C: *Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Rhonda L. Carder.*

Attached is the Hearing Officer's Recommendation report regarding the denial of Ms. Carder's certification application. Hearing Officer Schwartz recommends the Board approve Ms. Carder's application for certification.

FILED

MAY 06 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY [Signature]

**BEFORE THE SUPREME COURT OF ARIZONA
LEGAL DOCUMENT PREPARER BOARD**

IN THE MATTER OF A CERTIFIED LEGAL
DOCUMENT PREPARERS:

RHONDA L. CARDER

No. LDP-11-1

REPORT AND RECOMMENDATION

PROCEDURAL HISTORY

On January 24, 2011, the Board of Legal Document Preparers ("Board") denied Rhonda Carder's ("Applicant") individual application for standard certification as a legal document preparer. (Exhibits, page 000001, hereinafter 1) The Applicant requested a hearing pursuant to the Arizona Code of Judicial Administration ("ACJA") section 7-201 (H)(13). The hearing was held on April 12, 2011.

BOARD'S REASONS FOR REJECTION

1) The Board concluded that the Applicant had a conviction by final judgment of a misdemeanor which crime had a reasonable relationship to the practice of a legal document preparer (ACJA section 7-201 (E)(2)(c)(2)(b)(v)) (Hereinafter "subsection (v)"), and

2) The Board concluded that the Applicant failed to disclose information on the certification application subsequently revealed through the background

check (ACJA section 7-201 (E)(2)(c)(2)(b)(xv) (Hereinafter "subsection (xv)") (Exhibits, 4,5)

BOARD'S FINDINGS

3) The Board based its finding that the Applicant had a conviction by final judgment of a misdemeanor on the following, "Applicant disclosed the following on her application: 7/03 - Telephone Harassment - received a deferred sentence one year unsupervised probation, and six months anger management. 1/09 - Criminal Damage/Disorderly Conduct - took the plea offer of one year probation, fine, anger management and no alcohol for term of probation." (Exhibits, 4, 5)

4) The Board based its finding that the Applicant failed to disclose information on the following, "Applicant failed to disclose the following on her application: 10/22/85 - DUI - charged dismissed after diversion. 4/17/91 - DUI - charged dismissed after diversion. 10/20/03 and 7/13/04 - Criminal Mischief 1st Degree - Plea agreement to pay restitution in lieu of proceeding with criminal trial. Dismissed." (Exhibits, 5)

FINDINGS OF FACT

5) Applicant was not convicted by final judgment of Telephone Harassment in July 2003. After her application was received (but before the Board meeting of January 24, 2011), Applicant provided the program staff (Legal Document Preparer program, hereinafter the "Program") court records from Medford, Oregon regarding this charge. These records revealed that although Applicant entered a plea of guilty on January 14, 2004 no final judgment of conviction was ever entered in this matter. Instead, Applicant completed a diversion program. The court signed an order of dismissal on March 16, 2005.

diversion program. The court signed an order of dismissal on March 16, 2005. (Exhibits, 52-54)

6) Applicant was not convicted by final judgment of Criminal Damage or Disorderly Conduct in January 2009. Although Applicant was offered a plea bargain the records from the Lake Havasu City Municipal Court do not clarify that she accepted a guilty plea. (Transcript of the Hearing, hereinafter "TR", page 10, line 5, hereinafter "10:5" through page 11, line 17, hereinafter "11:17") The records revealed that she agreed to a deferred prosecution. (Exhibits, 23, 24) She was to participate in an anger management assessment with Anne Reed, pay a fine of \$600, be on unsupervised probation for 12 months, and have no alcohol for the term of probation. Ms. Reed provided the court with a letter of April 16, 2009 in which Ms. Reed concluded after assessing Applicant that Applicant did not require further anger management counseling. (Exhibits, 25) The court dismissed the case on May 12, 2010. (Exhibits, 26) It is also important to note that under Arizona criminal law the time of rendering judgment is at sentencing. (See Rule 26.3 (b) of the Arizona Rules of Criminal Procedure) Even if Applicant had entered a plea of guilty in this 2009 case, she was never sentenced. Therefore, there was no judgment of conviction under Arizona law.

7) Applicant did not fail to report the 1985 DUI and the 1991 DUI. But she was mistaken about the years of the DUIs. Applicant testified about her disclosure of these DUIs, "The dates were wrong because they were almost 30 years ago." (TR 27:9) On page 22 of the exhibits Applicant disclosed with her application the following information about two DUIs, "1982 (sometime) Dui: I can't find any case number as I was a minor, my mother doesn't remember anything

about this charge and the court couldn't find anything. Medford Oregon. 1993 DUI. No case number. I plead not guilty, this case was expunged, and there is no record of this that I could find or have record of. Medford Oregon." (Exhibits, 22) On October 26, 2010, Kimberly Siddall of the Legal Document Preparer program asked Applicant to explain the 1985 and 1991 DUIs. (Exhibits, 41) Applicant explained that in the 1985 DUI the charge was dismissed after diversion.

8) Applicant had explained to Ms. Siddall that the 1991 DUI was also dismissed after diversion. Later Applicant acquired additional records on this DUI that revealed that Applicant was wrong about the disposition of this charge. Instead the court records from Jackson County District Court (Oregon) revealed that Applicant entered a plea of guilty and was convicted on June 5, 1991. She was ordered by Judge White to serve 10 days in jail, participate in an alcohol and drug treatment program and pay a fine of \$291. A "Judgment on Guilty Plea" was signed on June 5, 1991. This is the only misdemeanor conviction by final judgment that Applicant has. (Exhibits 48, 49)

9) Since the 1985 DUI conviction was not a misdemeanor conviction by final judgment, Applicant was not required to report it. The application asks the Applicant the following: "Have **you ever** been convicted by final judgment of a misdemeanor, regardless of whether civil rights have been restored? (*The fact you entered into a plea bargain or pled "no contest" or your conviction has been vacated, pardoned, expunged, dismissed, or appealed, or your civil rights have been restored does not mean you can answer the question no. You must answer yes and provide details of the offense and explain. Do not answer yes if you have only minor civil traffic violations.*)" (Emphasis supplied) (Exhibits, 12)

10) The Rule ACJA 7-208 (E)(2)(c)(2)(b)(v) covers only one portion of the above parenthetical. The Rule at subsection (v) states that the Board may deny certification if it finds that the applicant has a conviction by final judgment of a misdemeanor if the crime is reasonably related to the practice of the certified occupation, "... regardless of whether civil rights have been restored." This subsection authorizes the program to inquire about misdemeanor convictions even if civil rights have been restored. This subsection does not authorize the program to inquire about charges that did not result in a conviction by final judgment. If the drafters of this subsection wanted to authorize the program to inquire and the Board to reject an application for circumstances where the applicant was arrested but not convicted of the misdemeanor due to participation in a diversion program, the subsection would have specifically made reference to that situation. In this Applicant's case four of the five arrests for misdemeanors resulted in no conviction by final judgment and dismissal of the charge through diversion. Since the Board was not authorized to reject an application for anything less than a conviction of a misdemeanor by final judgment, the Board could not be authorized to reject an application for failing to disclose arrests for misdemeanors that did not result in a conviction by final judgment.

11) In the 2003-2004 Criminal Mischief case, Applicant was accused of keying the car of Amy Hurd, the girlfriend of Applicant's ex-husband. (Exhibits, 67-77) Applicant hired a lawyer in Oregon Mr. Blodgett who settled the case with the victim Ms. Hurd for a payment by Applicant of \$900 to Ms. Hurd. Mr. Blodgett explained the settlement to Ms. Hurd's insurance company representative as follows: "My client, meaning Ms. Carder, settled the dispute by giving Ms. Hurd

\$900. Note: The district attorney dismissed the prosecution of the case. There was no plea entered." (Exhibits, 83) There is no conviction by final judgment of any crime in this case.

12) Even if the language in the parenthetical above were applied to the Applicant in this case, she would not have had to disclose the 2003 Telephone Harassment arrest, the 2009 Criminal damage/Disorderly Conduct arrest, the 1985 DUI arrest and the 2003/2004 Criminal Mischief 1st Degree arrest. All of these matters resulted in a dismissal after a diversion type program (or in the case of the Criminal Mischief a monetary settlement) instead of a conviction of a misdemeanor by final judgment. Applicant did not have her civil rights restored after a conviction by final judgment in any of the four matters described in this paragraph, because she never had a conviction by final judgment in these cases. Arizona law provides that only a conviction of a felony leads to the loss of civil rights. A person convicted of a misdemeanor in Arizona would never have to apply to restore their civil rights because the misdemeanor conviction would never result in the loss of civil rights. (See A.R.S. sec. 13-904 (A)) Oregon statutes section 137.281 concerning the loss of civil rights and the restoration of those rights applies only in felony cases. Arizona law allows for a person convicted of any crime who has fulfilled the conditions of probation or who has been discharged from the sentence to apply to the court to have the judgment of guilt set aside. (See A.R.S. sec. 13-907 (A)) In the five cases discussed above, Applicant had a judgment of guilt in only one matter.

CONCLUSIONS OF LAW

13) Applicant was convicted by final judgment of one misdemeanor, the 1991 DUI. (TR 12:18 through 13:14) Kimberly Siddall of the Legal Document Preparer program testified at the hearing that the Board did not base its decision to deny Applicant's certification on the 1991 DUI misdemeanor conviction. Ms. Siddall did not consider the nature of the DUI conviction to be reasonably related to the practice of a legal document preparer. She thought that the charges of Telephone Harassment, Criminal Damage and Disorderly Conduct were reasonably related to the practice of a legal document preparer. (TR 37:23 through 39:23) Therefore, the first reason stated by the Board for rejecting applicant's certification, conviction of a misdemeanor by final judgment that was reasonably related to the practice of a legal document preparer, has not been supported by the record before the Hearing Officer. Applicant has carried her burden to prove by a preponderance of the evidence that as to ACJA 7-201 (E)(2)(c)(2)(b)(v) she is qualified to receive a legal document preparer certification. ACJA 7-201 (H)(21)(c)(4)

14) The Board found that Applicant had failed to report the 1985 DUI, the 1991 DUI and the 2003/2004 Criminal Mischief. The Applicant did not have to report the 1985 DUI and the 2003/2004 Criminal Mischief because she was not convicted by final judgment of any offense in these matters. Applicant reported the 1991 DUI, but mistakenly stated it was in 1993 and mistakenly explained that it was eventually dismissed by diversion. After Kimberly Siddall of the program asked Applicant for more information on this DUI, Applicant obtained the court records from Medford, Oregon that revealed to the Board and the Program the conviction and sentence in this case. Although this may be a technical failure to accurately


report this information, it should not be a basis to deny the application for certification. Applicant referred to a 1993 DUI in her application.

15) The record does not reveal that Applicant had a DUI conviction in 1993. She thought the case was "expunged". Therefore, she was following the directions in the application (see paragraph 9 above). She was not trying to hide the fact of a DUI case from the Board. Applicant should have made a better effort to get the court records of the 1991 DUI before she filed her application. The program's representative testified that a conviction for a single misdemeanor DUI would not have resulted in a recommendation to the Board to deny Applicant's certification. Therefore, Applicant has carried her burden to establish by a preponderance of the evidence that she should not have been denied certification for allegedly failing to report information later revealed in a background check.

CONCLUSION/RECOMMENDATION

For the reasons set forth above, the Hearing Officer recommends that the Board approve the Applicant's certification as a legal document preparer.

DATED this 6th day of May, 2011



Jonathan H. Schwartz
Hearing Officer

ORIGINAL filed with the Disciplinary Clerk
this 6th day of May, 2011.

COPY of the foregoing mailed this 6th
day of May, 2011, to:

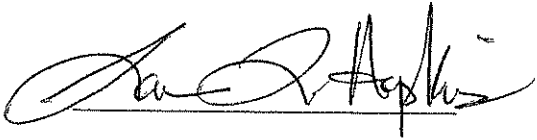
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Applicant



BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, June 27, 2011

6) LICENSE AND ELIGIBILITY APPLICATION

6-D: *Review, discussion, and possible actions regarding the requests for extensions or waivers of continuing education (CE) requirements for certificate holders.*

1. **Ranae Settle** - [REDACTED]
2. **Ruby Pino** - requesting a 60-90 day extension due to being certified on 9/27/2010 and lacking time to complete credits by the deadline.
3. **Cheryl Wall** - [REDACTED]
[REDACTED]
4. **Karen Kosies** - requesting a 30 day extension for 1 credit of ethics as required, has already registered and paid for ethics course. She has completed the 20 CE hours required and provided verification but did not satisfy the ethics portion for the 2010-2011 timeframe.
5. **Lisa Widman** - [REDACTED]
[REDACTED] Applicant has completed and provided verification for 11.5 CE hours.
6. **Evan Nielsen** - requesting a 30 day extension for 2.25 credits of the CE requirement because he was unaware that 20 hours were required. Applicant has already completed 17.75 credits and provided verification.
7. **Carla Gould** - requesting a 90 day extension for 10 CE credits because she was unaware that CE credits could not all be completed through self-study. Applicant has completed and provided verification for 20 CE self study credits though only 10 credits are eligible.

See enclosed requests for all of the above.

Pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-208((L)(9)(c)(2):

The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the legal document preparer has been unable to devote sufficient hours to fulfill the requirements during the certification period because of:

- (a) full-time service in the armed forces of the United States during a substantial part of the certificate period;*
- (b) an incapacitating illness documented by a statement from a currently licensed health care provider;*
- (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed health care provider; or*
- (d) any other special circumstances the board deems appropriate.*

Staff recommends the Board determine whether the above requests should be considered a special circumstance pursuant to ACJA § 7-208(L)(9)(c)(2)(d) that would warrant an extension or waiver of CE credits and direct staff accordingly.